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THE NATION

MARCH 15, 1971

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'Stretch Points' of Liberty

**Would the Bill of Rights
Be Suspended During a National Emergency?**

ALAN DERSHOWITZ



Chicanos Besieged: The Bloody Fiesta David F. Gomez

Louis Menashe / What Did Lenin Really Mean?

LETTERS

prison reading

Leesburg, N.J.

DEAR SIR: Even though *The Nation* is always at least satisfactory, the February 15th issue was so thoroughly satisfying as to deserve special mention.

Professor Wilson ["A Square's Night Behind Bars"] must realize after a night in prison that *The Nation* is a necessity for a prisoner who agrees wholeheartedly with Mr. Rasky's [Television column] pabulum rating for TV and other "news" media.

Robert F. Urbano, No. 37744-F-1
New Jersey State Prison

why business balks

East Lansing, Mich.

DEAR SIR: James Clotfelter ["Millions for Defense, But. . .", *The Nation*, Jan. 25] informs us that the U.S.-Vietnamese War is not popular among businessmen. . . . He writes, "the economic class interpretation of the war should not be taken so seriously as to obscure the distinction between cold-war defense business (until recently, very profitable) and hot-war defense business (seen as more trouble than it is worth)." The manufacture of "items like bomb casings and uniforms" for hot-war consumption is just not as profitable as is research and development for cold-war "strategic deterrence." I think Clotfelter's analysis obscures the real cause of business's changing position on the war.

First, items like bomb casings and uniforms annually make up \$5 billion to \$7 billion of so-called foreign aid [see B. D. Nossiter, "Arms Exports: The Runaway Enterprise," *The Nation*, Feb. 1]. Profitable? I think so. Second, Clotfelter himself points out that the "disenchantment among important economic groups with the Administration's [Nixon's, not Johnson's] Southeast Asian policies" is "recent. . . ."

Why are businessmen now disenchanted with this war? Increasing inflation? Increasing unemployment? The stock market collapse? In part, no doubt. However, the most serious cost of the Vietnamese miscalculation to the business and financial elites is the ever increasing public exposure of the corruption in and the collusion between business and government.

Had the conflict in Vietnam not occurred, ABM and SST would have passed Congress without opposition, Nader's Raiders would be a tolerable nuisance, and conservationists would still be voices in the wilderness. These and many other voices of dissent are what is more trouble for businessmen than the profits of the war are worth.

Bertram G. Murray, Jr., Assistant Professor
Michigan State University

schlock future

Arlington, Va.

DEAR SIR: It is a little depressing to note that the most incisive, witty and perceptive analysis of our society's problems—and the schlock writers' methods of profiting from them without moving toward solutions—appears as only a book review. Robert Claiborne ["Future Schlock," Jan. 25] shows us where the mirrors are and how the rabbits are hidden. Let us hope he has made the trade a little less attractive to those instant prophets who learn how to move smoothly from the provocative idea to the cash register, under an aura of academic omniscience. If this beautifully written piece were to reach as many people as will *The Greening of America*, etc., our chances of avoiding a schlock future would be much improved.

James J. Treires

EDITORIALS

The Price

First reactions to the bombing of the Capitol have been as predictable as the expressions of outrage. Security will be tightened: more guards, closer surveillance, more special electronic gear. The President's words in Des Moines were reasonable enough, but—at his own urging—we have learned to judge him on the basis of what he does, not what he says. There will be a crackdown, perhaps another conspiracy indictment, more legislative measures proposed, more wire taps and the like. Militant anti-war elements are, of course, the prime suspects. The press promptly concurred in the proposition that the bomb was "apparently planted" by such elements. Perhaps it was; it would not be unlikely. But if an inference were to be drawn from the effect of the explosion, one might reasonably assume that it was the work of hawkish elements eager to further the re-election of President Nixon by precipitating a constitutional crisis.

For if the bomb was planted by militant anti-war elements, it was an act of total insanity. Opinion is turning against the President (in safest Iowa, he encounters substantial protests); the Laos invasion is not proceeding on schedule; opposition is growing in the Senate and House. Such acts as the latest explosion undercut these trends and tend to create the kind of atmosphere—the paralyzing tension-crisis syndrome—that the President and Messrs. Mitchell, Agnew and Hoover know how to exploit. If such acts are repeated often enough, and on an expanding scale (which is not unlikely), a situation will be created in which the thesis of Alan Dershowitz (see article p. 329) will be put to the test. The reaction to such mindless acts of violence—the arrests, the tightened security measures, the conspiracy indictments, etc.—more than the acts themselves, is the prime agent of crisis.

As might be expected, Sen. George McGovern, in denouncing the explosion as "barbaric" and blaming it on our "Vietnam madness," said what needed to be said: "It is not possible to teach an entire generation to bomb and destroy others in an undeclared, unjustified, unending war without paying a terrible price in the derangement of our society."

Laos: A 'Fantastic' Success

The Administration's frantic efforts to put a good face on the invasion of Laos would be comic if the situation itself were not so serious. Like an advertising agency making a presentation, it has thrown itself into the job of "selling" the media, the opposition, the public and its own doubters and waverers on the proposition that the invasion has been, as Rep. Gerald Ford puts it, "fantastically successful." To support its case, it has summoned to the microphones the Army's most imaginative "briefer," Lieut. Gen. John W. Vogt, who missed a splendid career on Madison Avenue. General Vogt produced a 3-foot section from a North Vietnamese pipeline by way of reinforcing his own credibility.

The semantics of the presentation incite wonder and

admiration. A helicopter gun ship, blazing away at targets from 30 feet above the ground, is not to be regarded as an actual arm of the invading force, whereas presumably a tank would be so regarded. Ground forces will not be sent in, but riflemen may be used for "protective encirclement" to aid in the rescue of fliers who have been shot down. Their presence in Laos would represent "absolutely no change" in the commitment not to use ground forces. Again and again spokesmen have insisted that the invasion, if not quite on schedule, is not really behind either. Again and again, the original objective has been redefined. The key to real success, we were told one day, lies in reaching the huge storage area designated 640, near Tchepone. But, we were assured a day or so later, the invasion would still be rated "an important psychological victory" if this point were not reached. At no time, General Abrams tells us, was the operation intended to cut the Ho Chi Minh Trail, thereby contradicting his Commander in Chief. According to Abrams, the success of the operation is "critical" in relation to the America troop withdrawal process, but we probably will not know whether it has really succeeded until the fall!

Of course, the skimpiness of information has made it difficult to challenge the Administration spokesmen, who manage to keep changing their stories fast enough to remain one press conference ahead of their critics. All the same, this tactical advantage has been forfeited, since conflicts in the ever shifting claims and rationales merely reinforce the impression that the invasion has run into serious difficulties. The more the Administration talks, the more it has to explain. The harder it tries to "sell" the public, the more dubious the entire presentation becomes. Alibis beget alibis. The "catches" multiply. The escape clause, so neatly folded away in the long statement, bounces out of the fine print.

Besides, the story line is stale and the dialogue repetitious. It reeks, as David Halberstam points out, of "all the old misconceptions and illusions. . . . Who would have thought that instead of the light at the end of the tunnel we would have found a tunnel at the end of the tunnel?" But not quite; there is some light, if only in the sense that the public is not buying the presentation. The most recent Gallup poll indicates, for example, that the public by a ratio of 2 to 1 feels that the invasion of Laos will prolong the war. Thus by a mysterious and roundabout process, lies too often repeated lead to the truth.

The Erosion of Confidence

The last two weeks have seen a remarkable erosion of confidence in the Administration's policies in Indochina. Without any noticeable increase in demonstrations or protests, the number of doubters and skeptics has suddenly increased. As a sign that a significant shift of opinion is taking place one can point to the resolution, adopted by a vote of 31 to 8 at the recent caucus of the Senate Democrats, that calls for the withdrawal of all U.S. troops from Vietnam by no later than the end of 1972 (the term of this Congress). In a way, this development is unprecedented; for the first time, the Democrats, as a party, have taken a unified stand on this matter. Senators Jackson and Stennis, it is said, put up a bitter opposition to the resolu-

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The Nation is published weekly (except biweekly in July and August)
by the Nation Company and copyright 1971 in the U.S.A. by the Nation
Associates, Inc., 333 Sixth Avenue, New York, N. Y. 10014. Tel: CH
2-8400. Second class postage paid at New York, N. Y.

Subscription Price: One year \$12.50; two years, \$23. Add \$1 per year
postage for Canada and Mexico; \$2 other foreign.

Change of Address: It is essential that subscribers ordering a change
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Information to Libraries: The Nation is indexed in Readers' Guide to
Periodical Literature, Book Review Digest, Book Review Index and
the Public Affairs Information Service.

THE
NATION

Volume 212

No. 11

tion, but they were decisively defeated. Of particular interest is the fact that such formerly moderate hawks as Humphrey, Muskie and Pastore lined up with the majority, and that Senator Mansfield had marked success in convincing such "new" men in the Senate as Lawton Chiles, William Spong and Ernest Hollings to go along. What this means is that the Democrats, as a party, have now accepted the risks and responsibilities of advocating a total U.S. withdrawal by a fixed date.

Equally significant is the mounting opposition to the war and related enterprises by such Senate moderates as Mondale, Saxbe, Mathias and Javits. Senator Mondale has introduced a resolution, co-sponsored by Senator Saxbe and seventeen Democrats, to prohibit the use of American forces in any attempted South Vietnamese invasion of North Vietnam, without "prior and explicit" Congressional authorization. Senator Mathias seeks revocation of a series of special emergency resolutions—the Formosa, Middle East, Cuban resolutions, as well as the state of emergency which President Truman proclaimed at the time of the Korean War. Senator Javits, obviously disturbed by Mr. Nixon's latest actions and statements, is pressing S. 731, a bill to regulate undeclared war. "I feel the time has come," Senator Javits urges, "for a Republican Senator to post warning that the ship of state may be headed for the same rocks which broke up and sank the Presidency of Lyndon Johnson."

It is significant when moderates such as Mondale, Saxbe, Mathias and Javits begin to exhibit even more concern than do their colleagues, who have been carrying the brunt of the attack against Nixon's Vietnamese policies. All this reflects, as *The New York Times* points out, "a growing Congressional restlessness with the Administration's Vietnam policies."

It also has deeper implications. There is a rising level of disbelief, on a bipartisan basis, in the competence of this Administration at every level—its grasp of realities, its ability to project and execute sound policies, and its skill in political management. What Rep. Paul N. McCloskey (R., Calif.) calls "the case against the President" is beginning to jell.

Proportional Repatriation

After first exploiting the POW issue through a national and worldwide mass media campaign, the purpose being to put pressure on the North Vietnamese, President Nixon has now sealed the prisoners' fate, for the time being at least, by insisting that as long as Hanoi holds American POWs we shall keep a significant "residual" force in Indochina. This means, in effect, that the POWs will not be released and the war will continue, since the one issue is locked in with the other. Now many of the wives and families are beginning to realize that the best way to secure the release of the prisoners is to end the war. For the first time, reports Stephen S. Rosenfeld in *The Washington Post*, the National League of Families of American Prisoners and Missing in Southeast Asia has begun to poll its members on political questions. The specific measure that has captured their attention is a proposal for "proportional repatriation," advanced by Rep. Robert Leggett (D., Calif.), Rep. Donald Riegle

(R., Mich.) and twenty or more of their colleagues. The plan would coordinate release of the prisoners with the withdrawal of troops. Between 150 and 200 families have indicated their approval.

Up to now, the wives and mothers have shown extraordinary patience, but that patience is about exhausted. A year ago, Mrs. Virginia R. Warner of Ypsilanti purchased a billboard in nearby Ann Arbor to plead that persons write to Hanoi and urge the release of the prisoners. Since then her views have changed. "When I see how we have been used to gain support for the war, I wish I had never put up that billboard or urged anyone to write to Hanoi. I would like to put up a new billboard now—one which reads: 'President Nixon, end the war so the prisoners can come home'" (*Detroit Free Press*, January 28, 1971). Mrs. Jane Dudley, of Hawaii, whose son is a prisoner, feels that the constant political bickering over the treatment and fate of the prisoners simply obscures the true danger. "Really," she is quoted as saying in the *Honolulu Advertiser* (December 24), "my biggest worry is that the United States will kill them [the prisoners] off with the continued bombing. I think we're becoming a military nation. You either go out and kill or you have to get out of the country. I'm also very worried about the way Nixon decides these things all by himself. People won't take a look at how we got in there and why we stay." Mrs. James Mulligan, whose Navy pilot husband was shot down five years ago, explained her new political activity to *The Washington Post* (February 12) in a telephone interview: "This conflict has been political since the Tonkin Gulf resolution. It's a war run by politicians, not military men. President Nixon is trying to justify the loss of 44,000 lives. I wish him well, but I doubt he can do it. The American soldier is not receiving from his government the loyalty he gives to his government. I don't feel the Leggett proposal is the answer, but it's a vehicle to show the Administration and the Congress how mistaken is the view that the families are in accord with the Administration." If this trend continues, a new and potent political force will have been added to those that now insist that the war be brought to a speedy termination.

Hippies Have Rights

In many places they have none, and are singled out for harassment and arrest. But such expressions of hostility will be more difficult henceforth in the state of California, where hippies and overwrought residents and municipal officials have for some years faced one another in mutual antagonism. In furtherance of the anti-hippie trend, the city council of Carmel in 1968 adopted an ordinance sharply limiting the use of public property and prohibiting, among other things, sitting or lying on lawns. The problem was thought so critical that the city council accompanied the ordinance with a "declaration of urgency," based on "an extraordinary influx of undesirable and unsanitary visitors to the city, sometimes known as 'hippies.'" The public parks and beaches, it was alleged, were in many cases rendered unfit for normal public use by "the unregulated and uncontrolled conduct of the new transients."

During a public assembly called to discuss the new ordinance, Mrs. Ann Parr, a local merchant, sat on the grass

n a Carmel park and was arrested. After failing in demurrers in the lower courts, Mrs. Parr appealed to the State Supreme Court which, sitting *en banc*, has recently upheld her and directed the court below to issue the peremptory writ of prohibition, "as prayed." The majority opinion is written by Justice Stanley Mosk and concurred in by three others (three dissented).

Mrs. Parr, who obviously offered herself to test the ordinance, is described by the majority as "a merchant beyond the bloom of youth." The People, that is, the Carmel city council, cited this fact as demonstrating the impartial operation of the ordinance. In his brief, however, the city attorney urged the court to consider the "instant slum" created in Haight-Ashbury, the deterioration, if not destruction, visited on the campus at Berkeley, the "squalor and filth" of the communes in Big Sur, all culminating in the disaster at Carmel. He pleaded particularly on behalf of the grass in the city park on which Mrs. Parr sat, evidently not alone. "The grass," he cried, insofar as a lawyer can cry in a brief, "competed with and struggled against the overwhelming effect of heavy usage—cigarettes, bottles, knives and just plain people."

Anyone who has seen the Sheep Meadow in New York's Central Park after a demonstration, or the park surrounding the Washington Monument, cannot but sympathize for a moment with the city attorney and the virtuous burghers of Carmel. But the majority of the justices were unmoved. "... We may not blind ourselves," they said, "to official pronouncements of a hostile and discriminatory purpose solely because the ordinance employs facially neutral language." For precedents, they went back as far as the celebrated ruling of Justice Stephen J. Field, who was appointed to the U.S. Supreme Court by President Lincoln, in the case of a San Francisco ordinance requiring that every male entering the county jail have his hair cut to a uniform length of one inch—thus depriving Chinese of their queues. The feeling of respectable whites against Chinese in 1879 was about the same as that toward hippies now. They lived in overcrowded quarters and could easily be convicted of violating health statutes. "When we take our seats upon the bench," Justice Field said, "we are not struck with blindness, and forbidden to know as judges what we see as men; and where an ordinance, though general in its terms, only operates upon a special race, sect or class . . . we may justly conclude that it was the intention of the body adopting it that it should have only such operation, and treat it accordingly. . . ."

With many other citations, the Court found the Carmel ordinance in violation of the equal protection clause of the Fourteenth Amendment and struck it down. The ruling amounts to a declaration of rights for the hippies of California. Other states might well follow a good example.

They Brought You . . .

They brought you automatic transmission—and electrically operated windows—and power steering—and disappearing headlamps. But today the automobile engineers say they simply cannot bring you a bumper that will take a 5-mile-per-hour impact without caving in the whole front or rear end of your car. Or at least, they can't

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promise to do it by August 1, 1972, which is the date when the National Highway Traffic Safety Commission proposes that better bumpers be installed.

So the 1973 cars will come and go with their extremities vulnerable to what is, relatively speaking, a nudge.

Auto engineers must have poor memories. They seem to have forgotten altogether that the engineers of the 1920s had not only successfully designed such a bumper but were actually installing it on all the cars of that era.

But that was before some bright executive in Detroit got the idea that cars sold better if their bumpers were tucked in, front and rear, and only peeked out shyly like women's breasts. Really, how long is the American consumer going to put up with this guff?

Competition for the Post Office

Ours is supposed to be a competitive economic system. Of course this is largely talk, American business at the top levels being more monopolistic than competitive. The Post Office is one of these semi-monopolistic organizations, and the fact that it is now an independent government agency does not promise to make much difference. It is providing mediocre, and sometimes downright bad, service at increasingly high rates.

Like the railroads, the Post Office is technologically backward. Some efforts have been made to modernize its techniques, but without conspicuous success. Whatever the merits of the zip-code system, it has not speeded up the mails, and recent surveys indicate that first-class letters move no faster, and sometimes more slowly, when properly zip-coded than without the zip number.

John F. Stephenson, a retired superintendent of mails, derides the zip code and proposes instead for wholesale mailing a bar code on address plates which would be printed at the top of the envelope and specify the state, post office, carrier district and route number, all of which would be read electronically. He believes this would speed delivery and save the Post Office something like \$1 billion a year.

For the small or individual mailer, there is little relief in sight. First-class mail from New York City to the surrounding suburbs is sometimes delivered overnight, but more often it takes forty-eight hours. To insure overnight delivery, mailers pay special delivery fees. Occasionally this expenditure does not avail: an outgoing first-class, special delivery letter may miscarry, or lie in the New York City post office, so that it takes four days to travel 50 or 60 miles.

The Post Office is now planning an express intercity

service designed to provide next-day delivery of priority documents. This system will service twenty-six cities across the country. Items will be picked up and transferred directly to airports. The first stage is said to involve ten corporations which are under contract to use the proposed service.

A private company, the American Courier Corporation, specializing in transporting high-priority items, such as bank checks and legal documents, claims that it is serving 100 cities in forty-three states in a manner similar to that of the projected Post Office express service. It is reported to have 1,700 motor vehicles and fourteen aircraft for its operations. Officials of American Courier are critical of the Post Office for going into express service of the type their company provides. They feel the Post Office should give priority to improving regular mail service, and certainly many citizens who use the mails for business or personal needs feel the same way.

Another indication of competition is the large United Parcel Service organization, which competes with parcel

post in metropolitan districts. United Parcel uses adhesive stamps totally unlike postage stamps in appearance, but serving the same purpose. The cost of the stamp, the date the UPS insignia, and the words "Common Carrier" are on the stamp, together with various code numbers. This is serious competition: a mail order company on Long Island for instance, uses it for delivery in Putnam County, north of New York City, the shortest road distance in this case being about 80 miles. The service costs a bit less and is faster and more reliable than parcel post.

According to the *New York Times Encyclopedic Almanac*, "The U.S. Post Office Department is the largest single business organization in the world and conducts the greatest communications system known to man. It reflects both American culture and our economy more meaningfully than any other public or private agency." It reflects also the fact that, for all the good work and good deeds that are done, that culture and that economy urgently need radical improvement. Some competition with the Post Office should be effective toward that end.

Chicanos Besieged: The Bloody Fiesta

DAVID F. GOMEZ

Father Gomez is a Chicano priest from Los Angeles. He has contributed to a number of national magazines (Catholic World, Christian Century, etc.), and is now a member of the Paulist Center experimental team ministry in Boston.

Los Angeles

Chicanos, in the minds of many of the white majority, are bronze-skinned, black-haired militants who wear sinister Pancho Villa mustaches, speak broken English, and are innately prone to rebellious violence. Murder is in their blood, and they will kill people, including their own kind, at the drop of a sombrero. Their natural stupidity only adds to the unpredictability and wantonness of their crimes of violence.

Again, on Sunday, January 31, Anglo stereotypes such as these were reaffirmed, as Chicanos in East Los Angeles rioted for the fifth time in six months. After the smoke of the burning rubble had cleared, one man was dead, forty-eight were wounded and eighty-eight were under arrest. Property damage was estimated at nearly \$500,000.

Wholesale arrests of Chicanos ended similar disturbances last July 4, August 29, September 16 and January 9. The demonstration on August 29 cost the life of one of the most prominent voices of reason in the Chicano community, the popular newsman, Ruben Salazar. He was killed by a negligent Los Angeles sheriff's deputy who was not brought to trial or even reprimanded by authorities. [See "Overkill at 'The Silver Dollar'" by Enrique Hank Lopez, *The Nation*, October 19, 1970.] Salazar's death and similar incidents of wayward justice have escalated the resentment and hostility of Chicanos toward the predominantly Anglo law-enforcement agencies in Los Angeles. This open hostility and suspicion have, in turn,

led to more intensive policing of the barrio. During the last few months, relations between community and police have completely broken down and the barrio has been patrolled as though it were a holding camp for criminals.

The January 31st riot and killing followed upon a Chicano rally that ended peacefully in the late afternoon. Sponsored by the Chicano Anti-War Moratorium Committee, it began at Belvedere Park, located in the heart of the East Los Angeles barrio. About 5,000 Chicanos attended. The original intention of the Moratorium Committee in holding such rallies was to protest the deaths of young Chicanos in Vietnam at a rate double that for Anglos. Recently, the only topic of protest has been police repression. The choice of Belvedere Park on January 31 was no accident—just to the south is the East Los Angeles sheriff's station, headquarters of the *linches placas* (hated police).

That Sunday rally was the climax of a series of protest marches which had begun several days earlier in various barrios of the Los Angeles area. Most of the marches, which numbered from twenty-five to sixty marchers, stopped to picket police, sheriff and California highway patrol stations. Many of those who marched to Belvedere Park were in effect also marching toward the sheriff's station, chief symbol of all that has gone wrong in the Chicano community. For days preceding the rally the sheriff's station was heavily guarded and even sandbagged in defense against possible violence. Sheriff Peter Pitchess had, however, promised Moratorium leaders and rally organizers to keep a "low profile" of police presence during the day's events.

Despite the tension, a fiesta atmosphere prevailed as Chicanos sat on the scarred grass of the park's soccer field and listened while barrio speakers aired grievances of

police brutality and the gringo occupation of Aztlán (the Aztec name many Mexican-Americans give to the Southwest). Attorney Oscar Acosta gave the most rousing talk of the afternoon. "Ya es tiempo. The time is now! There's only one issue. Not police abuse. We are going to be rubbed over the head for as long as we live because we're Chicanos! The real issue is *nuestra tierra*, our land. Some people call us rebels and revolutionaries. Don't believe it. Emiliano Zapata was a revolutionary because he fought against other Mexicans. But we are not fighting our own people but gringos! We are not trying to overturn our own government. We don't have a government! Do you think here would be police helicopters patrolling our communities day and night if anybody considered us real citizens with rights!"

For long years, the barrios have been so gerrymandered that Chicanos are powerless to choose their own representatives. Last November, the Mexican American Political Association (MAPA) repudiated both Democratic and Republican Parties as unresponsive to the needs of the Chicano community. The Mexican-American people, who comprise 12 per cent of California's population, have almost no representation in Sacramento or Washington, D.C. MAPA endorsed Ricardo Romo as gubernatorial candidate for the Peace and Freedom Party. Romo, to no one's surprise, lost the race, but as a result the Democrats and Republicans are paying more attention to the Chicano vote. On the day following the riot, somewhat ironically, Gov. Ronald Reagan called for more representative reapportionment of voting districts in the barrios and especially in East Los Angeles.

Moratorium chairman, Rosalio Muñoz, ended the rally in the late afternoon by telling the people they could now go home with *orgullo*, pride. "Ya no tenemos miedo. Las calles del barrio son de nosotros." "We no longer have to be afraid of the police. The streets of this barrio belong to us." Muñoz also cautioned the people to "disperse peacefully—the most important part of the rally is the way we disperse. Don't go to the police station unless you want to get involved in a suicide. . . ." Most of the 5,000, responding to this appeal to reason, returned to their homes. But some did not. About 1,000, mostly young people in their late teens, headed for the station, where they angrily tore down a chain-link fence and threw rocks and bricks, smashing the windows of several cars belonging to the station.

Despite this, deputies did not retaliate but kept the "low profile" Sheriff Pitchess had promised. (During the rally, no uniformed police were to be seen.) Monitors, including some Brown Berets and two young priests, almost prevailed upon the crowd to disperse. However, they failed, and a large group headed toward the barrio's central business district, from where a few minutes later came reports of burning and looting. At first, the sheriff's department tried to deal with the situation with minimum force. A small group of deputies was deployed and they attempted to clear the area; but the crowd fragmented and violence continued to increase. At least thirty stores were looted, five businesses were burned, and the Los Angeles Fire Department answered thirty-five alarms.

Finally, Sheriff Pitchess ordered the entire area cleared by the hundreds of deputies he had available on standby

orders. The single fatality occurred when deputies and one sergeant opened fire with shotguns and pistols on a group of young men who, they said, had disregarded warning shots and were throwing pieces of concrete and metal at the officers. When asked about the killing and the wounding of seventeen, Sheriff Pitchess said his men were justified in the use of deadly force "in defense of their lives." But observers from the American Civil Liberties Union of Southern California, who first commended the sheriff for keeping his men away from the demonstration, condemned the subsequent method of riot control. The deputies, they said, fired buckshot into the crowd. Tear gas or birdshot (which does not kill) could easily have been substituted as a more "intelligent restraint."

Most people within reading distance of Los Angeles newspapers, including many "establishment" Chicanos, approve of Sheriff Pitchess' handling of the rioters. Severe criticism has been leveled at the Moratorium Committee which sponsored and organized the rally. Commenting on the riot, Sheriff Pitchess said that leaders of these demonstrations "have got to see that their demonstrations are useless. They cannot say we provoked them this time." The sheriff has never mentioned the long-sustained frustrations that underlie the riots in the barrio, nor has he ever acknowledged any misconduct in his men's handling of the disturbances.

The Chicano Moratorium Committee, led by Rosalio Muñoz and Brown Beret leader David Sánchez, responded to the sheriff's criticism in a little publicized press conference held two days after the riot. They deplored the outbreak of violence, insisting that the Moratorium Committee does not condone violence in any form, either from its own ranks or from the law officers who purport to protect and serve the Chicano community. The rally's aim was to focus public attention on the enormity of the grievances in the Mexican-American community. "Racial



prejudice has imprisoned our people in shabby homes and housing projects," said Muñoz. "The inferior education of Chicanos keeps them in poor jobs and makes them the first victims of unemployment, welfare, deportation, and they continue to swell the jails and prisons of California."

Brown Beret David Sánchez said that "to Anglos, justice means 'just us.'" Police and sheriff's deputies have continually brutalized the community, causing a buildup of alienation that manifests itself when angry Chicano youths strike out at police. The Chicanos who rioted and resorted to burning and looting are young people who have given up and have no political ideology or loyalty toward working within the system. They are really the products of the Chicano community's deprivation and oppression.

A very recent development may forecast a change of attitude. U.S. Attorney Robert Meyer announced in Los Angeles on March 3 that, though no indictments would be brought against officers involved in the August 29th slaying of Ruben Salazar, the grand jury will indict three Los Angeles police officers in the killing of two Mexican nationals last summer. Responding to a dubious report about a murder suspect, police broke into an East 7th Street apartment where the two Mexicans were living and killed them in a barrage of bullets. Later, police claimed that the two men—who had been sitting, unarmed, at a table—had first been ordered to come out of the room but had not obeyed. It was discovered, however, that the policemen were unable to speak or understand Spanish.

U.S. Attorney Meyer has angered both Police Chief Edward Davis and Sheriff Peter Pitchess by assigning neutral observers from the U.S. Civil Rights Division to cover most of the protest rallies in Los Angeles at which either police or sheriff's deputies had been on duty; he has also convened grand juries to hear evidence of alleged police misconduct and civil rights violations.

The recent riots are deeply rooted in more than a century of racial prejudice against Mexicans in the Southwest. The violence and killing that have raged in the barrio for the past six months are part of a pattern of race relations that has prevailed since 1846. Anglo society conquered the Chicano with invading armies after the Mexican-American War—a war which never ended. The Chicano has systematically been oppressed during the succeeding generations. "It is important to remember," wrote Carey McWilliams, "that Mexicans are a 'conquered' people in the Southwest, a people whose culture has been under incessant attack for many years and whose character and achievements, as a people, have been constantly disparaged."

While Chicanos have been living up to the self-fulfilling prophecies of Anglo stereotypes, they have also been cultivating some stereotypes of their own. The Chicano's image of the typical Anglo is the schoolteacher who authoritatively tells him that Spanish is a dirty language—the language his *mamá* speaks is dirty. It is the school counselor who tells him that he is innately incapable of following an academic course. It is the school boards that, until 1947, legally segregated Chicano children in separate buildings or classrooms; the same boards that still practice *de facto* segregation.

Another stereotype of the Anglo is the employer who



gives the Chicano only certain kinds of jobs (agriculture, unskilled labor, etc.) and has always paid him less than Anglos get for the same work and hours. Still another image is the welfare caseworker who considers the Chicano inferior because he is on the welfare rolls. And it is the Anglo who thinks he is superior because his skin is white. Many gringos who like *tacos* and *enchiladas* and who live in Spanish-style homes in California think that they have no quarrel with those rioting Chicanos. But the hard-core militants on the streets of East Los Angeles, stoning the sheriff's station, are also throwing bricks at them.

And perhaps the most important Chicano stereotype of the Anglo is the sheriff's deputy, who is in the barrio day and night. He is the point of most frequent contact between barrio Chicanos and the Anglo establishment. He is most himself when in full riot gear armed with his shotgun. His weapon is loaded with buckshot—which can kill even the most *macho* Chicano. A sheriff's deputy killed Ruben Salazar last summer and another man that recent Sunday. Now he has the approval and support of the people of Los Angeles to be even more intensive and tough in his policing of those Chicano criminals and hoodlums who have no respect for law and order.

Stereotypes or facts of life?

The Moratorium Committee and other Chicano leaders have indicated that they will take a more cautious approach to future demonstrations in an effort to avoid violence. New ways to politicize barrio people will be tried. But more violence is sure to come. It is part of a pattern as irreversible as the white rejection and prejudice embodied in the political party system, the schools, employment and the police. Chicanos will continue to try to destroy these with rocks and bricks as long as those are the only means available to them.

The next rally has been set for April, and time is running out. □

'STRETCH POINTS' OF LIBERTY

ALAN DERSHOWITZ

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At 4 A.M. on October 16, 1970, Prime Minister Pierre Trudeau proclaimed a "state of apprehended insurrection" throughout Canada. Pointing to the kidnapping of a Canadian minister and a British consul by members of Le Front de Liberation du Québec (FLQ), he invoked the "War Measures Act," thereby authorizing extraordinary powers of arrest, search and detention. Before dawn, the police—who had been strategically deployed in anticipation of the announcement—began to round up French Canadians suspected of association with the FLQ. Though most of the 450 arrested were never charged with any crime, many were held incommunicado for considerable periods of time. The Canadian Bill of Rights—which prohibits such detention—was rendered inapplicable by the emergency decree.

In the middle of the night of December 4, 1970, Irish Prime Minister John Lynch announced that a grave emergency existed in his country. Citing information that Saor Eire (a splinter group of the Irish Republican Army) was conspiring to kidnap "prominent" ministers, he declared that "unless this threat is removed," he would, without further notice, empower the police to "intern any citizen without trial." The government issued instructions "that places of detention be prepared immediately" and that the Council of Europe be notified that "these proposals will involve derogations from certain provisions of the European Convention on Human Rights."

Within the past few months, then, one democracy has suspended, and another has threatened to suspend, fundamental constitutional protections in response to political kidnappings and other disruptions of a kind not unknown to the United States. This raises the obvious question: could President Nixon take to the airwaves some night and announce that the nation was confronted with an emergency requiring suspension of the Bill of Rights?

"It could not happen here under any circumstances," was the categorical answer given to me in an interview by Deputy Atty. Gen. Richard Kleindienst, the man to whom President Nixon has delegated the task of planning for a domestic emergency.

We wouldn't suspend the Bill of Rights even if the whole Cabinet, the Chief Justice, and the Speaker of the House were kidnapped. In the first place, we wouldn't have to, because our existing laws—together with our surveillance and intelligence apparatus, which is the best in the world—are sufficient to cope with any situation. And in the second place, we wouldn't be allowed to; as I understand the law, the courts would have to be closed—unable to operate—before we could invoke martial law.

I pressed him on his last point: what if there were a concerted attack on the courts—judicial kidnappings of the kind attempted in San Rafael, Calif.; bombing of court-

rooms; harassment of jurors? Would that constitute an effective closing of the courts and justify a Presidential declaration of martial law? Mr. Kleindienst had obviously given some thought to this possibility, because his answer was quite specific:

We would deploy all our resources to get the courts open and to keep them open. We might have to use troops, but we wouldn't use them in place of the courts or the law; we would use them in support of the courts. We have careful plans ready to be put into effect in the event of any emergency requiring federal troops. A team of civilians headed by an Assistant Attorney General is to be dispatched to any crisis city. He would direct the activities of the troops, so there would be no danger of undue military influence. We have a book on every city in which an emergency might occur. We have had numerous rehearsals, but fortunately we have had to act only once: we sent a civilian team under Bill Ruckelshaus up to New Haven last year when it looked like the Panther trial demonstration might get out of hand.

Had he sent that team, I asked, in response to a request from the Governor? "No," replied Mr. Kleindienst, "we acted on our own initiative but with full cooperation from the local authorities. Let me assure you once again, however, that our object is to support the local civil authorities, not to supplant them."

I asked whether he thought Canada had overreacted to the two kidnappings. He responded with a twinkle:

We conservatives would not have reacted that way. Coolheaded Wall Street types—like Nixon, Mitchell and me—would never respond emotionally. We would be conservative in invoking extraordinary powers. You liberals, on the other hand, you wait too long before you act; you don't anticipate crises; you worry about upsetting your constituencies. When you finally do act, things have gotten so far out of hand that you have to overreact. That's why liberals are more likely to invoke emergency powers than conservatives. But in fairness to Canada, you have to remember that they don't have the law-enforcement machinery that we have. If we had a crisis, we would divert all our existing resources away from nonessential duties and turn them onto the problem at hand. And we would be able to solve it without the need for any emergency powers.

But what if we faced a situation similar to the one that had confronted the Canadian Government, where those fomenting violence were well known to the authorities but the absence of admissible evidence made conviction impossible? Wouldn't you be tempted, I asked Mr. Kleindienst, to invoke extraordinary power of temporary detention in order to break the back of the movement? "We wouldn't have to," he assured me:

There is enough play at the joints of our existing criminal law—enough flexibility—so that if we really felt that we had to pick up the leaders of a violent uprising, we could. We would find something to charge them with and we would be able to hold them that way for awhile.

Mr. Kleindienst's last remark reminded me of something the Canadian attorney general, John Turner, had said to

me during a conference he recently convened to evaluate his country's experience under the War Measures Act: "In a certain sense, it is a credit to the civil liberties of a country that it has to invoke extraordinary powers to cope with a real emergency. Some countries have these powers at their disposal all the time."

But whether a country must invoke extraordinary powers or whether it already has sufficient powers at its disposal tells us little about the actual condition of liberty within its borders. Every legal system has its "stretch points," its flexible areas capable of expansion and contraction, depending on the situation. The "stretch points" in our own system include: broad police and prosecutorial discretion; vaguely defined offenses, such as disorderly conduct; inchoate crimes like conspiracy (which may also be vaguely defined) and denial of pretrial release (which can sometimes result in confinement exceeding a year). Some systems employ such devices as "common law (judge made) crimes," *ex post facto* legislation, or emergency powers to achieve similar results. As Attorney General Turner put it: "When placed against the wall, most governments act more alike than differently; they do what they have to do to survive." There are, nevertheless, important differences in the manner by which governments respond to perceived emergencies. Some will take considerable chances with their security in order to preserve a maximum of liberty; others will become harshly repressive at the slightest threat, real or imagined. The true condition of a country's freedom can best be seen by stripping away the legal jargon and focusing on the actual balance it has struck between liberty and security.

That Canada invoked emergency powers, while we seem prepared to rely on "play at the joints of our existing criminal law," does say something important about the different status of constitutional rights and their judicial enforcement in the two countries. The Canadian Bill of Rights is subject to suspension by legislative act; accordingly, extraordinary powers can be invoked quite easily in that country without fear of judicial disapproval. The American Constitution, on the other hand, has been described by the Supreme Court as "irrepealable law . . . for rulers and people, equally in war and peace, [which] covers with the shield of its protection all classes of men, at all times under all circumstances."

But are the safeguards of our Constitution as irrepealable as the judicial rhetoric proclaims? Is Mr. Kleindienst correct when he says that under our law a President would not be "allowed" to suspend the Bill of Rights? Would the courts step in and protect a citizen against the unauthorized actions of a highhanded Chief Executive during a period of national emergency? That neither American history nor current constitutional doctrine answers these questions unambiguously can be demonstrated by a brief recounting of some episodes from past periods of upheaval.

Abraham Lincoln proclaimed Emancipation, but he also issued another, less well-known proclamation which had the effect of virtually suspending the Bill of Rights. A week after the fall of Fort Sumter, in a communiqué authorizing Gen. Winfield Scott to commence the "bom-

bardment" of certain cities in Maryland "if necessary, Lincoln also empowered the General to suspend the writ of *habeas corpus* in designated areas, but only "in the extremest necessity." (*Habeas corpus*, though not a part of the Bill of Rights, is the critical safeguard without which all other constitutional protections would remain largely unenforceable, since its suspension would deny the courts the power to release persons held in violation of other protections.) Shortly after Lincoln issued his "incarceration proclamation," an obscure Marylander named John Merryman, whose loyalties were apparently with the South, was roused from his bed at two in the morning, taken to Fort McHenry and imprisoned there under military guard. A writ of *habeas corpus* was sought from the Chief Justice of the United States, Roger B. Taney—a Lincoln protagonist and author of the infamous *Dred Scott* decision. Taney's opinion gave Lincoln a failing grade in constitutional law: "I had supposed it to be one of those points in constitutional law upon which there was no difference of opinion," he commented sarcastically "that the privilege of the writ could not be suspended except by act of Congress." But though the Chief Justice ordered him released, Merryman remained confined: the general in charge of the fort simply denied a marshal permission to serve the necessary papers, and Lincoln took no official notice of the opinion (which was personally transmitted to him by order of the Court).

Following this confrontation between the Executive and the judiciary, Congress enacted a statute giving Lincoln even broader authority to suspend constitutional safeguards than he had requested. And so, when Lambdin Milligan was arrested in Indiana on October 5, 1864, there was little doubt that the privilege of the writ of *habeas corpus* had been properly suspended.* Not content to detain him, the military authorities decided to try Milligan—a civilian—before a military commission, which promptly sentenced him to hang. By the time the case worked its way up to the Supreme Court, the war was over and, in Justice Davis' words, "now that the public safety is assured, this question . . . can be discussed and decided without passion or the admixture of any element not required to form a legal judgment." The Supreme Court held that since the civil courts of Indiana—a loyal state—had been open and "needed no bayonets" to protect them, it had been unconstitutional to try Milligan before a military commission. Recognizing that Milligan was arrested in wartime, when passions run high and "considerations of safety" are deemed all important, the Court concluded that the framers of our Constitution

. . . foresaw that troublous times would arise, when rulers and people would become restive under restraint, and seek by sharp and decisive measures to accomplish ends deemed just and proper; and that the principles of constitutional liberty would be in peril, unless established by irrepealable law.

This nation . . . has no right to expect that it will always have wise and humane rulers, sincerely attached to the principles of the Constitution. Wicked men, am-

*The Constitution specifically authorizes suspension "when in cases of Rebellion or Invasion the public safety may require it," and the Civil War was, of course, a rebellion within the intended meaning of that term.

bitious of power, with hatred of liberty and contempt of law, may fill the place once occupied by Washington and Lincoln, and if this right [to suspend provisions of the Constitution during the great exigencies of government] is conceded, and the calamities of war again befall us, the dangers to human liberty are frightful to contemplate.

Having delivered itself of this bold rhetoric about "irrepealable law," the Supreme Court then proceeded to suggest that the right to bail could be suspended during emergencies:

If it was dangerous, in the distracted condition of affairs, to leave Milligan unrestrained of his liberty, . . . the law said to arrest him, confine him closely, render him powerless to do further mischief; and then . . . try him according to the course of the common law.

That is what Congress meant, reasoned the Court, when it authorized the suspension of the privilege of *habeas corpus*.*

This view was reaffirmed—and strengthened—by Justice Oliver Wendell Holmes in a case growing out of a private war between Colorado coal miners and owners which led to a declaration of local martial law. In addition to suppressing newspapers, deposing civil magistrates and closing all saloons, the Governor suspended *habeas corpus* and ordered the arrest of certain "objectionable characters." One of these characters, a leader of the miners, was detained without bail for two and a half months and sued the Governor after his release. Though Holmes need never have reached the legality of the detention, he went out of his way to justify the Governor's action. Employing "logic" for which he surely would have chastised his first-year Harvard law students, Holmes argued that since a governor can order soldiers to "kill persons who resist" efforts to put down a rebellion, it certainly follows that "he may use the milder measure of seizing the bodies of those whom he considers to stand in the way of restoring peace." (This *non sequitur* would, if taken seriously, justify detention of all persons suspected of felonies, since under the laws of most states deadly force can be used against anyone resisting a felony arrest.)

Although Holmes intimated that the Court might not sustain a detention of undue duration, his uncritical legitimization of the Governor's exercise of extraordinary power was a clear invitation to abuse; and abuse was not long in coming. Numerous governors invoked the magic phrase "martial law" as a kind of "household remedy" to accomplish such diverse and illegitimate ends as closing a race track, manipulating a primary election, keeping a neighborhood segregated and, frequently, settling labor strikes to the advantage of management. It was inevitable that the Supreme Court could not long tolerate such bogus declarations of martial law. The case that finally made the Court lose patience arose in the east Texas oil fields during the early years of the depression. The Governor

*The Milligan case suggests an interesting argument against the constitutionality of pretrial preventive detention during normal times: if it requires suspension of *habeas corpus* to deny bail on grounds of danger (as *Milligan* implies); and if *habeas corpus* cannot be suspended except in cases of "rebellion" or "invasion" then it would seem to follow that bail cannot be denied on such grounds except during extreme situations.

declared martial law and ordered restrictions on the production of oil, in an effort to raise its price. There were no riots or violence; nor were any troops employed. Martial law was invoked simply to accomplish economic ends. The Supreme Court enjoined the Governor's action, reasoning that unless it did so "the fiat of a state Governor, and not the Constitution of the United States, would be the Supreme law of the land."

That is where the law stood on December 7, 1941 when the Japanese air force bombed Pearl Harbor, throwing Hawaii into turmoil and generating fear of attack in our West Coast cities. Within hours, the Governor of Hawaii, at the insistence of the Army, declared martial law, suspended *habeas corpus*, ordered the civil courts closed, and empowered military tribunals to try all criminal cases. The Governor handed the reins of government over to the military only after receiving assurances that civilian control would be restored as soon as the immediate emergency was over—within days or, at most, weeks. Relative calm returned quickly to the islands, as the threat of renewed attack dissipated; places of amusement and saloons were permitted to open in February of 1942; and life returned to near normality after our victory at Midway removed any realistic threat of invasion. But the military still insisted that the civil courts remain closed and the writ of *habeas corpus* remain suspended. A considerable battle ensued over the next years between the ousted civilian officials and the governing generals. It culminated in a contempt citation issued by a federal judge against the Commanding General, followed by an order issued by the General threatening to court-martial the judge if he persisted in issuing writs of *habeas corpus*. Not until after the war (and the restoration of *habeas corpus* by the President did the Supreme Court decide that Congress, in authorizing martial law in Hawaii,



Interlandi, Los Angeles Times

had not intended to permit the "supplanting of courts by military tribunals." By that time, thousands of man days of illegal imprisonment had already been served.*

Martial law in Hawaii, with all its abuses, did not include the kind of mass detention on racial grounds, used on the West Coast from 1942 to 1944. The removal and confinement of 110,000 Japanese-Americans, though carried out by the Army, resulted from intense pressure brought by civilian officials (such as the then Attorney General of California, Earl Warren). This shameful episode is publicly defended today by almost no one, not even the House Internal Security Committee, which recently called the episode—"at least in hindsight"—"a dark day in our history."

It is important to recall that the Supreme Court, although it did approve the forced removal of Japanese-Americans from the West Coast, did not sustain their long-term detention in the camps. The only detention case decided by the Court involved a woman who the government conceded was loyal. That case reached the Court near the end of the war, when plans were already in progress to return the detainees to their homes. It was easy for the Court, therefore, to order the woman's release on the ground that Congress had never explicitly authorized detention of a "citizen who is concededly loyal [and who] presents no problem of espionage or sabotage." "Loyalty is a matter of the mind," said Justice Douglas, "not of race, creed or color."

The Japanese-American cases are more important for what they legitimated than for what they disapproved. As Justice Jackson observed in his dissenting opinion in the *Korematsu* case: "The principle [of this case] lies about like a loaded weapon for the hand of any authority that can bring forward a plausible claim of an urgent need." Within a few years after the last of the Japanese detention camps had been dismantled, Congress picked up this loaded weapon and aimed it at another group. On the heels of the Communist invasion of South Korea, a number of liberal Senators—among them Kilgore, Douglas, Humphrey, Lehman, Graham, Kefauver and Benton—introduced the Emergency Detention Act of 1950. After devoting fifteen paragraphs to a recitation of the evils of the "world Communist movement," the statute empowers the attorney general to arrest and detain anyone "as to whom there is a reasonable ground to believe that such person probably will engage in, or probably will conspire with others to engage in, acts of espionage or sabotage." The suspect may be kept in "a place of detention" for an indefinite time, and he is denied such basic constitutional safeguards as trial by jury, bail, confrontation of his accuser and proof beyond reasonable doubt. This extraordinary measure can be invoked in the event of a Presidential declaration of "Internal Security Emergency,"

* The main reason why this issue did not reach the Supreme Court earlier was that the Justice Department "mooted" prior cases by releasing the defendants as soon as they filed petitions in the Supreme Court.

An extreme—and absurd—example of the inclination of judges to defer decision until after the emergency has passed was provided by a case growing out of the Hawaiian martial rule. In 1944, a Circuit Court of Appeals had approved the military trial of civilians. Two years later Circuit Judge Stephens filed a belated dissenting opinion, saying he had been reluctant to file it while the war was still going on.

but such an emergency cannot be declared unless our territory is invaded, Congress declares war, or there is an insurrection in aid of a foreign enemy.

Had Congress declared war against North Korea or North Vietnam, as many—including some liberals—urged it to do, the President could have invoked the Detention Act. He could have invoked it also had he agreed with some Congressmen that the urban riots were "insurrections in aid of a foreign enemy." But since there has, in fact, been no Presidential declaration of internal security emergency since the enactment of the law, the detention provisions have never been employed.*

There was a time, however, when serious thought was given to mass detention of potential saboteurs. No less a liberal than former Sen. Paul Douglas declared, in the course of the debate over the Detention Act:

Mr. Hoover says there are 12,000 ["hard core . . . potential saboteurs and spies"]. In my judgment, if we had a period of national emergency—and I think it is pretty close to being a period of national emergency now—the best thing the country could do would be to "put them on ice," so to speak, treating them nicely, but to take them out of circulation so that they could not commit acts of treason.

Following the passage of the Act, the Justice Department established six detention "camps" throughout the country. These camps remained unused and generated little concern, until a few years ago a writer named Charles R. Allen achieved some prominence by publishing a pamphlet, "Concentration Camps, U.S.A.," which alleged that the Justice Department had a plan—code-named "Operation Dragnet"—under which it could round up hundreds of thousands of dissidents "overnight." That unfortunate document was given considerable credence by the publication of a report by the House Committee on Un-American Activities, entitled "Guerrilla Warfare in the United States." Among the actions that the report said "could be taken" in the event of a ghetto riot is the invocation of the Emergency Detention Law:

Acts of overt violence by the guerrillas would mean that they had declared a "state of war" within the country and, therefore, would forfeit their rights as in wartime. The [Detention] Act provides for various detention centers to be operated throughout the country and these might well be utilized for the temporary imprisonment of warring guerrillas.

The report also stated that during a "guerrilla uprising most civil liberties would have to be suspended. . . ." It is not surprising therefore that mimeographed copies of this report were widely circulated in black areas and that a survey by *The Washington Post* found a "deep and abiding" belief in the black community that massive riots would lead the government to "make a vast indiscriminate sweep down the streets of black ghettos and hustle every man, woman and child off into a concentration camp."

Another incident that lent some credence to the con-

* We are now in a state of "national emergency" as a result of President Truman's proclamation of December 16, 1950. The existence of this state has been reaffirmed by subsequent Presidents. But we are not in a state of "internal security emergency" which carries very different powers. Other possible states include: "extreme emergency," "sufficient emergency," "war or similar emergency" and "public peril."

centration camp alarm was a reported interview in which Deputy Attorney General Kleindienst was quoted as saying that demonstrators who "interfered with others . . . should be rounded up and put in a detention camp." On the very day that this charge was categorically denied, Kleindienst wrote a letter to Senator Eastland stating the Administration's recommendation that the Detention Law be repealed, because such action would "allay the fears and suspicions—unfounded as they may be—of many of our citizens"; and this benefit "outweighs any potential advantage which the Act may provide in a time of internal security emergency." (My own discussions with Mr. Kleindienst convinced me that he did not—and does not—advocate the use of the detention law that was attributed to him.)

The Senate recently voted, by voice and without debate, to repeal the detention law, but the House sent the proposal to the newly named but familiar Committee on Internal Security. Its chairman, Mr. Ichord, is now trying, with apparent success, to persuade his colleagues in the House that retention of the Detention Act would be in the interests of civil liberties, since the Act would not permit a roundup on racial grounds such as were used against the Japanese.* It is unlikely, therefore, that we shall see repeal of the Detention Act in the immediate future. Nor are we likely to see repeal of the many other statutes that authorize the President to employ extraordinary powers during periods of crisis—powers which include the closing or taking over of radio and television stations; the censorship of newspapers; the imposition of travel restrictions on citizens and aliens; the summoning of the *posse comitatus* (the old "posse" of the cowboy movies); the calling out of federal troops; and the expropriation of private property (subject to subsequent reimbursement). Moreover, the President has considerable inherent powers which are said to derive from the nature of his office, and which can be invoked without regard to Congressional authorization.

The power to declare martial law, for example, is not even mentioned in the Constitution. Nor is the scope of that power anywhere defined, as an opinion of the attorney general pointed out in 1857:

The common law authorities and commentators afford no clue to what martial law, as understood in England, really is. . . . In this country, it is still worse.

"And what was true [of martial law] in 1857 remains true today," observed Justice Black in a 1946 opinion. Some commentators have been content to cite Wellington's cynical apothegm that martial law is simply the will of the general; or the equally simple-minded aphorism that "necessity knows no law." The Supreme Court has recognized that "Civil liberty and this kind of martial law cannot endure together; the antagonism is irreconcilable."

*Ichord's Alice in Wonderland logic assumes that the President would have more power to detain without a Congressional act than he would with such an act. What he neglects to mention is that the Supreme Court specifically relied on Congressional ratification in sustaining certain aspects, and in disallowing other aspects, of the Japanese relocation. Moreover, the disingenuousness of Ichord's crocodile tears for civil liberties is established by the fact that when repeal was considered in Committee, he introduced an amendment explicitly saying that repeal should not be construed to limit the President's inherent powers to order detention.

While courts have delivered opinions that are full of promise and prose about their majestic role during crises and the "irrepealable" nature of our fundamental safeguards, they have acted far more cautiously. And experience teaches that what courts have in fact done in the past is a far better guide to what they will do in the future than is the rhetoric they have invoked.

What then could we reasonably expect from our courts if an American President during a period of dire emergency were once again to suspend important constitutional safeguards? Past experiences suggest the following outline: The courts—especially the Supreme Court—will generally not interfere with the Executive's handling of a genuine emergency while it still exists, but will employ every technique of judicial avoidance at their disposal to postpone decision. (Indeed, though thousands of persons have been unlawfully confined during the country's various periods of declared emergency, I am aware of no case where the Supreme Court has ever actually ordered anyone's release while the emergency persisted.)* The likely exceptions to this rule of judicial postponement will be cases of clear abuse when no real emergency can be said to exist, and cases in which delay would result in irrevocable loss of rights, such as those involving the death penalty.** Once the emergency has passed, the courts will generally not approve further punishment; they will order the release of all those sentenced to imprisonment or death in violation of ordinary constitutional safeguards. But they will not entertain damage suits for illegal confinement ordered during the course of the emergency.

When these strands are woven together there emerges an approach to the limits of martial law which was encapsulated by Justice Holmes: Martial law is not "for punishment" but rather "by way of precaution, to prevent the exercise of hostile power." This distinction between "punitive" and "preventive" law runs through the cases and has been echoed by many commentators. But, as Blackstone recognized many years ago, there is no sharp line between punishment and prevention: "If we consider all human punishment in a large and extended view, we shall find them all rather calculated to prevent future crimes than to expiate the past." Practically speaking, the distinction means simply that the courts will tolerate preventive detention during an emergency, but will not approve the carrying out of any part of a sentence after the emergency has ended.

This prediction of what courts will do in fact may not prove entirely accurate. Important changes have occurred since World War II. The Warren Court entered "political thickets" into which previous Courts had been reluctant to venture, and its bold record of recognizing and enforcing basic rights can scarcely be undone by the Burger Court. Civil rights organizations have proliferated and are better—though probably not well enough—

*The Japanese detention case was decided while we were still at war with Japan but well after the danger of a Japanese invasion had ended. Some lower federal courts did order the release of individuals of German and Italian origin who were detained on the East Coast.

**In *ex parte* Quirin, the Supreme Court held that German spies captured in the United States could be tried and sentenced to death by a military commission.



Liederman, Long Island Press

"Now Don't Get Upset, It's Not a No-Knock Entry, Only a Quick Entry."

prepared to resist an emergency suspension of civil rights. And, most important, the war in Vietnam and other recent events may have divided the country beyond any possibility of full repair; short of a nuclear holocaust, we shall probably never again see an emergency that will bring the country together in a unanimous display of solidarity and patriotism such as followed the Japanese attack on Pearl Harbor.

But historical experience—even when tempered by these recent developments—ought to warn us that we cannot place entire reliance upon judges to vindicate our liberties in the midst of great national crises. Judge Learned Hand recognized this when he said: "Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it; no constitution, no law, no court can even do much to help it." But just how deeply is liberty engrained in the hearts of American men and women? Can we rely on their "eternal vigilance" to resist suspension of fundamental safeguards during periods of crisis (especially those safeguards designed to protect a small minority)? History is disappointing in this respect. When the military assumed control in Hawaii, few protests were heard from the average citizen. Part of the reason, of course, was that it is in the nature of military rule to discourage dissent. In Hawaii, newspapers were allowed to print only what the generals wanted the people to read, and public criticism was punished by court-martial. But there is a subtle, and dangerous, sense in which people—even people whose traditions proclaim liberty—become comfortable with regimentation

and authority. They do not necessarily welcome it, but neither are they willing to take risks in order to restore traditional rights. Many Hawaiian businessmen and store owners, for example, resisted the return of civilian authority and even wired the President to urge caution in the restoration of *habeas corpus*. As one businessman commented: [We] were a darned sight safer as American citizens under that kind of military control. . . .

It has been indeed fortunate for the survival of our liberties that there have always been some Americans—often only a small group and sometimes not those directly affected—who have been willing to challenge governmental highhandedness, even during periods of crisis. Under our constitutional system, it takes only a single person challenging the government to create a case or controversy suitable for judicial resolution. Even though the Supreme Court has been reluctant to decide such cases and controversies in the midst of the crisis, it has performed an important historical cleansing function by condemning illegal action after normality has been restored. But the courts should do more than issue retrospective *pronunciamentos*. This is not to suggest that justice should remain blind to the existence of a real emergency endangering the survival of the nation. As Justice Arthur Goldberg once wrote: "While the Constitution protects against the invasion of individual rights, it is not a suicide pact." But it is precisely during times of crisis—when the balance between momentary expediency and enduring safeguards often goes askew—that courts can perform their most critical function: to preserve or restore a sense of perspective.

Nor is there any sound reason why the courts should refuse to entertain declaratory actions challenging emergency powers *before* they are invoked. Legal issues can be "discussed and decided without passion" before a crisis as well as after it, and with considerably greater impact. But such anticipatory litigation has been generally rejected, on the ground that there will be ample opportunity for challenge when the emergency power is invoked. (A constitutional attack on the Emergency Detention Act, for example, was recently dismissed on this basis.) Given the course of avoidance consistently followed by courts during emergencies, this "wait for the crunch" argument is not persuasive.

Learned Hand is surely correct when he warns that courts alone cannot save liberty during times of crisis. But he is wrong when he suggests that "no court can even do much to help it." In the eternal struggle between liberty and security, we have come to expect the executive and legislative branches to champion the latter. The judiciary—with its lifetime tenure, its tradition of independence, and its unique stewardship over our irrevocable rights—is the institution most able to resist the passing fears and passions of a dangerous moment.

But liberty, like life itself, needs many sources of nutrition to sustain it. It is not a commodity that can be obtained once and for all and then passively held on to. The difficult struggle must be endured by every new generation and in each new crisis. What Thomas Paine taught us on the eve of our own Revolution remains true today: "Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it." □

THE COTTON-MILL KILLER

RALPH NADER

Mr. Nader has made a national reputation as a champion of the public's interests. He is the author of Unsafe At Any Speed and the recently published What To Do With Your Bad Car (both Grossman).

Several thousand workers in the nation's textile mills are suffering from the crippling disease—byssinosis—popularly known as brown lung, and many more thousands are exposed daily to the cotton dust that causes the disease. These disclosures, made over the past two years in medical journals, in the press and at Congressional hearings, follow a decade of research by public health officials, carried out in the face of unparalleled obstruction by textile manufacturers who have denied researchers access to their mills and applied political pressure to suppress the results of their studies. When it became evident that byssinosis was not an affliction peculiar to European textile mills, as American textile interests and their company doctors had claimed for years, but a serious threat to the American cotton-mill worker as well, measures were urged to reduce or eliminate it. Specific recommendations were for a significant investment for research on control of cotton dust, medical surveillance in the plants, and financial compensation for victimized workers. Today it is obvious that neither these proposals nor the plight of 250,000 mill workers, who are exposed daily to cotton dust, have made any impression on the directors of the textile industry or on the Nixon Administration.

Byssinosis was recognized in British medical literature as early as the 1930s and made compensable as a work-related disease under workmen's compensation laws in 1941. It is not a petty disease. In the first stages, the worker notices a tightness of the chest and has difficulty breathing when he returns to work after a weekend away from cotton dust. This is the well-documented "Monday-morning" syndrome. The symptoms subside during the work week.

As brown lung progresses, the victim is breathless throughout the week, and when the disease reaches a third and final stage, his lungs are permanently damaged. His condition has degenerated into a state resembling emphysema and chronic bronchitis; he is forced to give up all activities that require any physical exertion, including, eventually, his job. In the end, each breath becomes a struggle for life.

According to Dr. Arend Bouhuys, professor of epidemiology at Yale University Medical School, who has led the research on byssinosis in U.S. mills since 1964, at least 17,000 cardroom workers and spinners, those employees exposed to the highest levels of cotton dust, now suffer from brown lung at various stages. Other research substantiates Dr. Bouhuys' findings. Dr. Peter Schrag, formerly a public health officer with the North Carolina Board of Health, has reported that of 509 workers whom he tested, sixty-three or 12 per cent were

byssinotic, and that 29 per cent of the cardroom workers had the disease. In 1969, the North Carolina State Board of Health examined 1,000 cotton textile workers and found an overall prevalence of byssinosis of 6 to 12 per cent; the prevalence among cardroom employees was 18 to 28 per cent. That same year, Dr. James Merchant of the North Carolina Board reported that 29.6 per cent of the carders he tested were byssinotic.

None of these studies exposes the full extent of the disease, particularly since almost no retired workers have been included. (Data collected by the Social Security Administration on relative disability from respiratory diseases show a morbidity ratio for retired textile workers as high as double the "expected" figure.) The North Carolina Board of Health estimates that of the 270,000 textile workers in the state, approximately 125,000 are exposed to cotton dust. What the studies do indicate, therefore, is that brown lung is an occupational disease of serious proportions that potentially threatens nearly half of the industry's labor force.

Contrary to what might be expected, greater mechanization in the industry has increased the danger of brown lung. The mechanical picker, now used in the fields, leaves more trash in the cotton, and the new high-speed cards increase the dust levels in the plants. Modern ventilating systems and air conditioning are deceptive because they remove the larger particles but not the very fine dust that is breathed into the lungs. The use of low-grade cotton in combination with the new synthetic fibers also increases the brown-lung hazard. Dr. Bouhuys says in the *New England Journal of Medicine* (July 27, 1967): "It is sometimes thought that byssinosis is now disappearing because of increased mechanization and better dust control. . . . We suspect that byssinosis may be on the increase rather than on the decline."

In the same article, Dr. Bouhuys reports a case study of a mill worker diagnosed as byssinotic:

A 46-year-old man started work in the cardroom as a "slubber tender" at the age of 25. For twenty years he worked in the same mill, which was spinning good-quality cotton yarns. He had no respiratory symptoms during this time. In January 1965, he moved to the same job in another mill, where conditions were bad. This mill was spinning low-quality cottons. The cardroom was provided with a dust exhaust ventilation system, but according to the patient, the ducts were insufficiently cleaned and therefore usually clogged. "At times you could not see ten feet in front of you because of the dust." Symptoms of tightness in the chest and breathlessness soon developed and were worse on Mondays and Tuesdays than on other days. In April 1966, he had to stay away from work because of severe symptoms. He consulted one of us, who diagnosed byssinosis and wrote to the mill suggesting that the patient be transferred to a non-dusty job. However, the personnel manager told the patient, "I have never heard of such a disease," and discharged him from his job. The patient

said that many other cardroom workers were similarly affected. On clinical examination he was emaciated.

Other physicians have said that they are reluctant to notify the mill that a patient is byssinotic, for fear that the bosses will simply discharge him. Then the mill worker not only receives no compensation for the loss of his health—byssinosis is not specified under workmen's compensation in any state—but is jobless as well. In most cases he has no union to back him up (only 18 per cent of textile workers are unionized) and no government authority making any effort to reduce the hazard to his health. The North Carolina Commissioner of Labor, Frank Crane, says that his department does not inspect textile mills for dustiness, and until recently the state's health department has not had right of entry to the mills. South Carolina, with the second largest population of textile workers, does not even have an occupational health and safety unit in its health department. The federal government, whose failure to enforce Walsh-Healey job health and safety standards is notorious, has provided no safeguards for the mill worker whose plant sells to the government.

The reaction of the industry to warnings of brown lung has been to deny existence of the disease and to block attempts to study it. On July 10, 1969, one of the industry's extremist trade papers, the *Textile Reporter*, referred to byssinosis as "a thing thought up by venal doctors who attended last year's ILO meetings in Africa where inferior races are bound to be afflicted by new diseases more superior people defeated years ago."

Other industry spokesmen have used tactics hardly less crude. In 1964, when the U.S. Public Health Service gave Dr. Bouhuys a grant for a five-year study of brown lung, the industry's lobby in Georgia attempted to discredit him and to halt the study by applying pressure on the president of Emory University, where Bouhuys was then teaching. T. M. Forbes, executive vice president of the Georgia Textile Manufacturers Association, wrote President Sanford S. Atwood of Emory that the study was a waste of taxpayers' money. "If this disease were prevalent among cotton textile employees," Forbes wrote, "it would seem to me that at some time during my thirty-seven years in this industry that fact would have come to my attention during the hundreds of meetings and conferences of textile manufacturing employers which I have attended."

Forbes then sent a secret memorandum to the members of the GTMA, suggesting that they tell any Emory alumni or trustees whom they knew "what your company has done to provide safe, healthful and comfortable working conditions in your plants." In the event that this did not stop the study, Forbes urged manufacturers to keep Bouhuys out of their mills. "Your participation would be purely voluntary on your part. There will be no legal or governmental compulsion involved in the survey." Dr. Bouhuys was not admitted to a single textile plant in Georgia. He conducted his study in the mill at the U.S. penitentiary in Atlanta from which he could not be barred.

In 1966, Dr. Schrag attempted to survey textile workers in North Carolina, but was at first denied entrance at

every mill he approached. Finally, one mill admitted him, on condition that he keep his findings secret. As Dr. Schrag put it later, "I had to reassure them that they would be commended rather than criticized for having so many sick people." Schrag managed to publish his findings, but shortly thereafter lost his job with the North Carolina Board of Health. (He is now with Columbia University's Harlem Hospital Center in New York.)

In 1969, the industry announced that it was making its own study. The American Textile Manufacturers' Institute had contracted with the Industrial Hygiene Foundation of Pittsburgh to find out, first, whether byssinosis existed and, second, its prevalence. The results of the study are not yet known, but this is the foundation that defended the coal mine industry during the recent struggle to make black lung disease compensable. Meanwhile, the fact that Industrial Hygiene is at work has been used to discourage other inquiries.

In October 1969, state Rep. Troy Hyatt of South Carolina tried to open an investigation in that state. John K. Cauthen, executive vice president of the State Textile Manufacturers' Association, wrote to the Governor and every member of the legislature, reminding them of the study in progress and saying that Hyatt's study would only "fragment" research efforts and "might result in a variety of findings which conceivably would confuse the situation rather than finding answers to whatever problems may exist." The textile lobby did not succeed in stopping the study outright, but the legislature limited expenditures to \$1,500, thus assuring an inadequate inquiry into a problem affecting more than 150,400 South Carolinians.

State investigations have been stifled in other ways. One Georgia public health official has admitted: "We have done no studies in connection with byssinosis, but have been advised of its existence by industrial physicians in an unofficial manner. Such a study would involve the cooperation of several managements. Some are agreeable to such a study when contacted singularly [*sic*], but as a group this has not been the case."

Such reactions from industry and from the major textile states make the federal government's responsibility to take action against brown lung the more urgent. In August 1969, I wrote the then Secretary of HEW, Robert Finch, asking that he initiate a federal campaign to reduce this occupational hazard by making more money available for research, by alerting workers to the danger, and by setting standards of dust control and medical care in the mills that sell to the government. In his reply, dated September 19, 1969—almost a year and a half ago—Secretary Finch noted that "it appears that thousands of workers may be adversely affected by cotton dust." He went on to say, "I strongly agree that effective action must be taken to curb this occupational hazard."

We have yet to see the "effective action" the Secretary promised. In 1970, the U.S. Public Health Service gave Dr. Bouhuys another grant of \$68,390 for research and spent about \$40,000 for a conference on occupational health and safety in the textile industry. Appropriations of that size do not begin to support the kind of research that can lead to prompt and effective elimination of a

disease that has crippled tens of thousands of workers, and right now is disabling a known 17,000 and almost certainly thousands more. Almost no study is being made of technological control, such as removing cotton trash at the gin. The U.S. Department of Agriculture has resources for that kind of research, and money could be given to textile schools that undertook to develop a safe technology. But USDA is doing nothing. The National Cotton Council gets \$1 for every bale of cotton sold (close to \$10 million a year) for promotion and research. It spends not one cent to solve the brown-lung problem.

The textile industry will probably continue to do nothing until it is threatened with large expenditures to compensate its workers for loss of their health—expendi-

tures considerably larger even than the present costs of early retirements, sick leaves and loss of efficiency among its injured employees. Therefore if the federal government would make brown lung a compensable occupational disease, that one step would both encourage preventive measures and assist those victims for whom prevention is now too late. Rep. Phillip Burton (D., Calif.) has introduced a bill to provide such compensation. By supporting the measure the Administration could take a first step toward redeeming its promise of "effective action," made a year and a half ago. With state governments in the grip of their powerful textile lobbies, and with the industry itself displaying an unprecedented callousness to the suffering of thousands of its employees, protective steps can come only at the national level. □

BRAZIL: WHAT TERROR IS LIKE

MARCIO MOREIRA ALVES

Mr. Alves, a Brazilian journalist, former Member of Parliament and a leader of the Catholic Left in exile, is now living in Paris.

Apolonio de Carvalho, the 60-year-old leader of the Brazilian Revolutionary Communist Party (PCBR), who was one of the forty political prisoners exchanged in June 1970 for Ambassador von Hollenberg, said on his arrival in Algiers: "The German people will understand why Brazilian revolutionaries must resort to kidnappings in order to free their tortured brothers, for they too lived under a Nazi dictatorship."

Carvalho's statement might have seemed exaggerated to those who have only a superficial knowledge of Brazil. American and European newspapers, when they give any space at all to my country, present a superficial, two-dimensional picture. On one side are the activities of the foreign concerns that control most of Brazil's industry. Their profits are soaring; their rates of expansion are among the best in the world, and they lend credibility to the praises that the Brazilian Government showers upon itself by way of its censored press and television. In contrast to these glowing reports from bankers, entrepreneurs and generals are the stories of hostages tortured and executed by the urban guerrillas. Nowhere does one find an attempt to relate the extremes, to explain this eruption of violent rebellion amidst apparent prosperity. The outside world is not told that an increasing concentration of wealth limits to a shrinking few the profits from industrial expansion. No mention is made of the hunger and misery that drive millions of landless peasants to the cities. Most important of all, the foreign press fails to expose the incredible violence that the state itself must use to keep the masses quiet while the privileged squander the nation's riches.

Brazil's industrial growth requires that an army of the jobless be held in reserve in the cities, so that those who have work will accept the pay reductions necessary to curtail inflation and to accumulate investment capital.

The *favelas*—the shantytowns that surround every major city—are as essential a part of Brazilian "prosperity" as the huge plants of Sao Paulo and the highways that penetrate the Amazon. The plain figures, which the government suppresses as well as it can, prove the exploitation of Brazil's workers. If one takes 1964—the year the military seized power—as an index of 100, in 1968 the gross production index was 122.6, the average wage was 98 and the minimum wage, which is what 70 per cent of the workers get, was 83. (These statistics are from *Conjuntura Economica*, p. 65-67, February 1970.)

True, there are as yet no concentration camps in Brazil. A crash program of prison construction and the conversion of army barracks into detention centers for political prisoners have kept pace with the 12,000 to 15,000 people the regime has thrown behind bars. The Brazilian generals have not adopted the grandiloquent rhetoric of Mussolini and Hitler, nor have they stressed racial supremacy, a concept difficult to impose on a people of mixed blood. But there are signs that old lessons are being learned and adapted.

The most widely used governmental slogan is *Ninguém Segura Esse País*—no one can hold back this country—which was born in the national euphoria that ensued when Brazil won the football World Cup in 1970. It is now used to support official development programs, being intended to give the people a sense that they share in the building of a new superpower. Bumper stickers say: "Brazil: Love It or Leave It," an appeal to middle-class chauvinism which also implies, as in the United States, that the country has no place for those who oppose the regime. The distinction between true and false Brazilians is an obligatory paragraph in military speeches. Marshal Garrastazu Medici, the current dictator, has said that his government will assure the human rights of real Brazilians—thus giving a free hand to those who torture the "false" Brazilians, said to be in the pay of an "international subversive conspiracy." Hailing his first anniversary in power, he said that only those who wish to destroy

the regime could resent the absolute powers he holds—and that, therefore, he intends to keep them.

Incongruous as racism may seem in the Brazilian way of life, there are some signs that young officers in charge of repression have nebulous admiration for the Third Reich. Luis Edgar de Andrade, a journalist arrested by error on August 25, 1969, took part in some very odd conversations on the subject. When he commented on some swastikas painted among the emblems of the Death Squadron at the military prison where he was held, his jailers began to speak of Germany and Nazism. They had the vaguest notions of what had happened in that remote time, but ended by asking Andrade if he didn't think "Hitler was right." The only federal deputy beaten after the arrests of December 1968 was David Lerer, a young Socialist from Sao Paulo. While he was being punched, kicked and whipped in the minister's room of the Army Ministry, in Brasilia, the officers screamed at him: "Take this because you are a commie and a dirty Jew!" According to witnesses, Chael Shereir, a 23-year-old revolutionary who was killed under torture on November 21, 1969, was excessively beaten by his questioners because he was Jewish.

Another policy of the military regime that strengthens the Fascist analogy is the "Civic-Education Program." A law passed in 1969 makes civic education a required subject for all students at all levels from kindergarten to postgraduate studies. The official texts, printed and distributed by the Ministry of Education, are a mixture of praise for the regime, slander of the previous liberal-democratic system, and appeals to primitive symbols of patriotism, such as the national anthem and flag. Every mention of the military stresses its right to guide the country, its selflessness and heroism. Such political control of teaching, along with the permanent purges of students

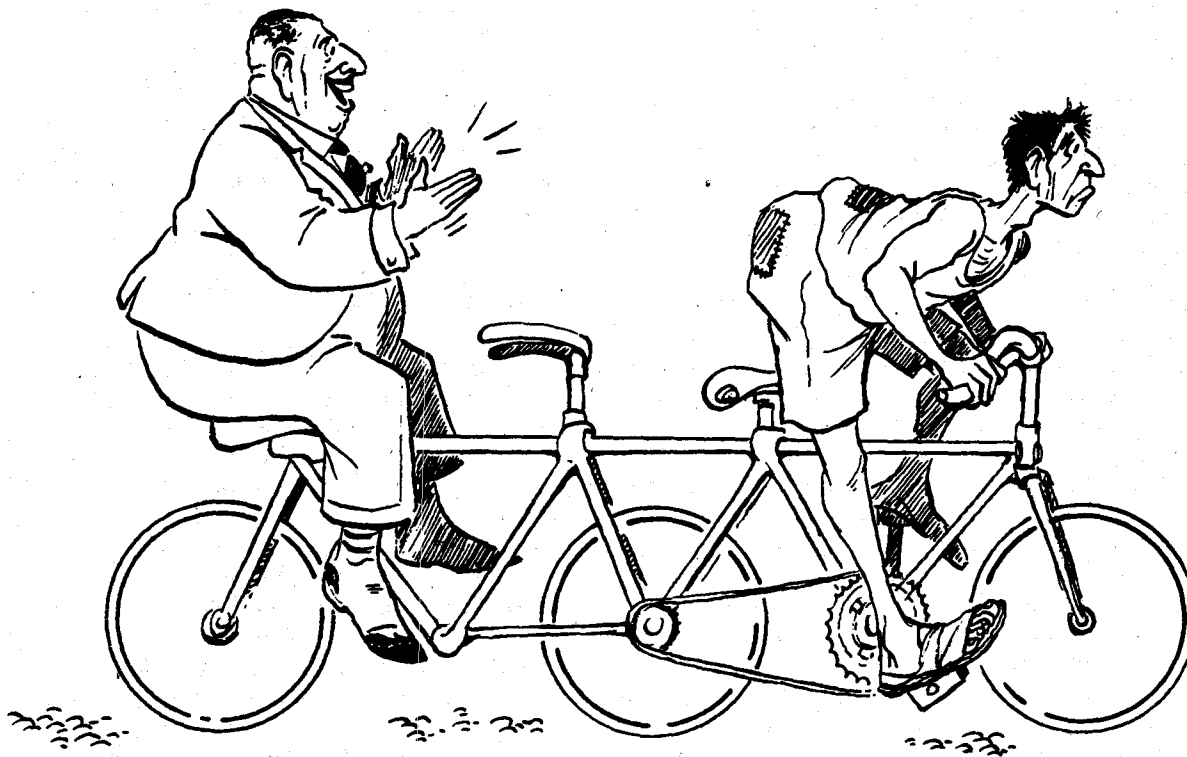
and teachers and the banning of "subversive" books, is intended to produce docile generations for the future.

The regime's development policies also betray some similarities with what was done earlier in Europe. Great military *Autobahns* fan out through the wilderness toward the frontiers; inland airports are being built; an industrial-military "entente" produces ammunition and both light and heavy weapons. The great difference is that the Brazilian military cannot find a national bourgeoisie with which to ally itself, one that will relinquish whatever nationalistic aspirations it might have in order to serve the international capitalistic forces established in the country. The structure of capitalistic industrialization in Brazil is such that a national-bourgeois revolution is completely impossible.

That, however, counts for little, as against the ruthless brutality of the military oppression of the Brazilian people. It is in the use of force that the present regime is basically akin to the great dictatorships of the world. Like them, it uses force as an instrument of policy, as a requirement to assure its stability.

State terrorism is not the product of sadistic inclinations on the part of some independent warlords in Brazil. It is the base from which the government operates and, therefore, no amount of international pressure, of diplomatic interference, of public denunciations, be they uttered by the most influential persons, will restrain it. The nature of a terrorist state can be changed only by the destruction of the terrorist regime, and such a regime can be destroyed only by force.

Some of my readers may have forgotten what a terrorist state is like. Others, perhaps, have never known or wanted to learn. All, I think, can profit from the Brazilian situation, as a reminder or a lesson.



Vadillo, Siempre (Mexico)

The first ground rule of an effective terrorist state is that no one shall feel secure. Not even the masters may be safe from fear. In order to maintain this insecurity, the state's repressive arm must enjoy complete autonomy. It is to be bound only by its own internal rules, its loyalties pledged exclusively to its own hierarchical structure. It must not recognize external influences or obey external authorities. It must never hesitate to attack the powerful, even the mightiest.

Second, the terrorist state's methods should be known to, or at least guessed by, the people. If large sectors of the population are aware that torture is used routinely against the regime's opponents, the pool of recruits for the opposition will dwindle to those willing to risk everything. The number of those ready to give occasional assistance, even the ranks of passive sympathizers, will be greatly reduced. Intimidation, wanton arrests, searches, police barriers, are as much part of the tactics of the regime as military operations against urban or rural guerrillas.

Finally, secrecy must go hand in hand with publicity. The particular victim must not know his fate beforehand. Families must be kept in ignorance of the whereabouts of their arrested members. Prisoners must be isolated from the outside world, from contacts with parents or lawyers. Deaths are not to be reported; information about all and every detail of a prisoner's life must be withheld. The prisoner simply vanishes, so that doubt as to his fate will further intimidate his family and friends.

On November 2, 1970, an official police announcement was printed in the papers and read every ten minutes on Brazil's radio. It reminded the population not to walk the streets without proper identification papers, for an "anti-subversive" exercise was to be launched. Roadblocks were thrown up outside the larger cities and across the main highways. In Rio de Janeiro alone, 20,000 troops were mobilized. Busses were stopped and the passengers searched. Working-class districts were surrounded by police, and helicopters hovered above them to guide ground troops toward suspects or runaways. Jeeps and armed vehicles quartered the streets, at top speed and with sirens blasting. From Copacabana's beachline to small settlements in the Amazon basin, arrests were made according to a list prepared long in advance. Soldiers and police militia, brandishing automatic weapons, yelling and making a boisterous display of force, broke into houses and took bewildered people away to unknown prisons. In every town or village where there was a military detachment, barracks were used as screening centers or prisons. According to the press, 4,000 to 5,000 arrests were made in Rio alone, and at least as many in Sao Paulo, where the "exercise" covered the whole state.

Arrest lists had been drawn in a way to demoralize the "controlled elections" for Parliament, to be held on November 15. Many candidates, both of the pro-government party and the tolerated opposition, were thrown in jail, despite judicial guarantees protecting them. Journalists, professors, intellectuals, prominent citizens whose arrest would certainly arouse protests in a country with as closed and interpenetrating an elite as that of Brazil, were taken away, no one knew where. Prof. Heleno Fra-

goso, vice president of Rio's Bar Association, a defender of political prisoners, and one of the highest authorities on criminal law in the country, was kidnapped from his house at midnight. Four armed plainclothes men threw a sack over his head, shoved him into an unmarked Volkswagen and drove him to a windowless cell, where he found two of his colleagues. They were kept there for three days and then released, again blindfolded and without explanations.

The "exercise," code-named "Operation Cage," established once and for all the independence of the repressive system from any "liberalizing" Presidential policies, such as parliamentary elections and investigations into the workings of the Death Squadrons. In fact, it demonstrated so plainly the farce of an election meant to gain international approval for the country's "restrained democracy" that for the first time in Brazilian history the resistance movement was able to persuade more than 50 per cent of the voters to cast blank ballots.

Officially, "Operation Cage" was staged to frustrate a "terrorist week," plans for which the police said they had found among the papers of Joaquim Camara Ferreira, who became leader of the National Liberation Action (ALN) when Carlos Marighela died after being arrested. These plans were said to call for a sustained revolutionary action, starting on November 4, to mark the first anniversary of Marighela's death. Ministers and other governmental personalities were to be kidnapped and held for ransom; well-known torturers were to be executed, and propaganda raids were to be staged against radio stations and in the *favelas* and factories.

It is unlikely that a guerrilla group as seasoned as the ALN would plan a wide-scale operation for exactly the date when the police could be expected to be at their most alert. "Operation Cage" was the Reichstag fire of the Brazilian terrorist state. Marshal Garrastazu Medici who, as President of the Republic, is responsible for holding military and civilian power in balance, declared himself "surprised" by the size of the operation and the scope of mass arrests. He belatedly controlled the troops and had some important prisoners freed, but the point was made—strong-arm squads are responsible only to themselves.

What "Operation Cage" showed so dramatically to the government and to international public opinion had long been accepted by the revolutionary organizations in Brazil. The analysis that had moved them to action is simple: a dictatorship, established to protect the privileges of a small property-owning class and to assure the growing control of the nation's economy by imperialistic interests, must suppress all popular movements, every spark of national liberation. It cannot be opposed through legal channels, for these are closed as soon as they offer a threat to the regime.

When all the established paths to change are barred, only the road of revolution remains open. The revolutionaries must develop armed struggle in an ever increasing escalation, up to the moment when a correlation of forces will favor the revolutionary movement and a bid for power can be made. These conclusions are not the product of ideological extravagances or intellectual abstrac-

tions. They spring from hard facts, from the lessons learned during years of military rule and increasing brutality.

Every organization, every movement bent on changing the unjust structures of Brazilian society, on organizing the underprivileged to uphold their grievances, has felt the heel of political repression. Even activities that would seem innocent—popular education and literacy programs—are put down, for access to knowledge is a step toward awareness, which the regime rightly sees as a threat to its stability.

Trade unions were the first target of repression. Hundreds of labor leaders have been jailed or forced underground. Strikes were outlawed and are now held a crime against national security. Unions were infiltrated with informers. In Osasco, an industrial suburb of Sao Paulo, several revolutionary organizations called a general strike in August 1968. A few plants were occupied by workers seeking better salaries. Immediately, an immense military operation was sent against them. Osasco was surrounded and occupied. The workers were quickly evicted from the factories and thrown in jail. Churches were searched and priests arrested. All the leaders lost their jobs and were subject to military courts. The police occupation lasted for months. Many of those who, though deprived of their jobs, were not thought sufficiently subversive to be arrested had to move their families to distant cities, for nowhere in the state could they find work. The same thing happened to the strikers in the metalworks around Belo Horizonte and to the bank employees of Rio and Paraná.

Peasant movements have been quelled with still greater violence. Gregorio Bezerra, an old Communist leader of the sugar-cane workers of Palmares, a plantation city near Recife, was hunted down by the army immediately after the coup. Stripped to his underwear, an open bayonet wound across his skull, he was dragged by the neck behind a jeep through the streets of Recife. The scene was photographed and shown on television. Later, he was so badly tortured by his captor, Col. Villocq Viana, that the army itself moved him to another prison, fearing he would die before being questioned.

Bezerra was fortunate enough to survive and to be included on the list of prisoners exchanged for the kidnapped American Ambassador. He is now in a hospital in the Soviet Union. Many other rural leaders were executed and their bodies simply left by the roadside. At least one, killed on September 7, 1964, was thrown into the furnace of a sugar mill. All over Brazil, the peasant trade unions and the peasant leagues were destroyed by the army, the police or the bodyguards of the landlords. The Catholic basic education movement, which promoted organization by the peasants, was banned in many states. Its teachers were jailed, forced to move to other cities or out of the country.

The real motives for political repression in the countryside can be seen in two illuminating incidents that occurred in the northern state of Maranhao, on the frontier between the humid Amazon basin and the arid northeast. On July 13, 1968, seven policemen armed with machine guns appeared at the peasant trade union of

Pindaré Mirim. This union, organized mainly by settlers of public lands, had refused to sell its members' rice crop, according to custom, to the local dealers and landowners. By renting a truck and driving 200 miles to the capital city of Sao Luis, they could dispose of the rice at a price two and a half times higher than what was offered in Pindaré Mirim. The dealers and landowners resented this show of enterprise. They called in the police and accused the peasants of subversion. When the police arrived at the union, a few peasants were standing in line for the clinic. The president of the union, Manuel da Conceição, was dragged into the street and, in front of his friends, shot five times in the legs. He was then thrown into the police station wagon—a donation by USAID to the Brazilian people—and taken to prison. Left there for three days without medical attention, his toes began to rot and his right leg had to be amputated.

On July 23, 1970, in the village of Coroatá, Maranhao, several agents of the federal police arrested two Italian missionaries, Fathers Gabriel Fallai and Lourenzo, and eleven peasants. The men were charged with "subversion" for having organized the local population, built a school, and opened a dirt road. Under threat of the policemen's guns, the peasants were obliged to destroy the school they had built. Their tools were seized.

The right to sell one's crops at a fair price, the right to learn how to read and write—both threaten the ruling classes, and must be denied. That is why students and teachers are one of the main targets of the political police.

The Brazilian student movement was the first to organize against military rule and American domination. It took to the streets in 1966 and by 1968 was leading 100,000 people through the center of Rio, in protest against police brutality, the lack of academic facilities and disregard for civic and human rights. Being the most visible part of the opposition, it was early repressed. The National Students Union was outlawed in 1964 and its leaders have since been on the most wanted list of the secret services. On the other hand, it was from the ranks of the student movement that Carlos Marighela and most other clandestine organizations recruited the bulk of their militants. According to the head of the general staff, Gen. Antonio Carlos Muricy, in a sample of 500 prisoners connected with revolutionary groups, 33 per cent were students, 23 per cent were recent students, and the average age of the group was 23. Though the Brazilian military and, most specially, General Muricy are not great champions of the truth, these percentages are probably representative of the early stage of urban warfare in Brazil today.

The decision to take up arms was imposed upon those who could not live without freedom and justice in Brazil. How to fight was the option of certain groups, originally fractions of the orthodox Communist Party, but now including men and women of very diversified political origins.

The revolutionary movement in Brazil has developed a set of original tactics—those of the urban guerrilla. Three main strategic considerations determine the choice of this form of warfare. First, as the movement was only starting, it needed to make a propaganda im-

pact on the masses and on the government. To do that, it had to aim at the centers of power and decision, all of which are in the larger cities. A victorious blow against an army unit somewhere far in the interior would have little effect upon the people's imagination, if it became known at all. A small victory in Rio or Sao Paulo could never be entirely concealed. Second, as the dynamics of Brazilian capitalism must keep a large unemployed reserve in the *favelas*, these shantytowns perform the role of the countryside in Mao's strategy. It is true that part of the *favelas'* population consists of second and third generation city dwellers, already integrated into what Oscar Lewis calls "the culture of poverty," with their peasant origins lost. Most of the *favelados*, however, are newcomers and the structure of the *favela* is already based on a self-defensive system against a hostile bourgeois society. The fact, for instance, that a stranger can never get quick and accurate information on the lives and whereabouts of *favela* inhabitants is an invaluable help to an urban fighter in hiding. The normal hazards one can expect in such an environment—the indiscretions of women around the community pump, the curiosity of neighbors, the squealers and police spies—can be readily overcome by political indoctrination and, if need be, by forceful disciplinary measures. Third, and most important for the present phase, the urban origins of most of the first militants made an immediate choice of rural warfare practically impossible. A student, a worker, a soldier can be spotted miles away in the countryside, where he is an only too conspicuous fish in the sea of the people. Not so in the city, his own or any other. The street is his normal hunting ground, which he knows and in which he is unknown.

The urban guerrilla is considered a preliminary device. No revolutionary movement thinks that the regime can be destroyed in the cities alone. The harassment that urban fighting can produce is capable, at most, of demoralizing the repressive system and of creating economic difficulties. It is not a substitute for power. All agree that to muster the strength necessary for direct confrontation with the dictatorship the countryside must be conquered, and liberated regions established in order to permit the gathering of an army.

In a system that almost totally lacks social legitimacy, as does the Brazilian dictatorship, a successful uprising is always possible—something like the *Bogotazo*, the riots that followed the assassination of the liberal leader Jorge Elcier Gaitan in Bogotá, April 1948; or like the rebellion of the people of Santo Domingo in 1965. Such an explosion of violence can be politically directed and, by playing upon the contradictions with the military, could result in a thrust for power. This possibility, gamble though it is, figures in the revolutionary planning—and in the counterinsurgency methods of government.

The greatest danger for an urban guerrilla organization is that it will be cut off from the masses. Repression can force the total militarization of a group, in which case its recruiting possibilities become severely reduced and it begins to take part in the deadly competition between a small armed band of revolutionaries and the large armed gangs of the military and the police. This error has already been committed by some Brazilian or-

ganizations and will probably lead to their destruction.

Carlos Marighela saw both the limits and the possibilities of urban guerrilla. He also understood how broad a political spectrum a revolutionary force must span in order to succeed in Brazil today. After breaking away from a stagnant Communist Party, he tried to form a coalition, in which people of Marxist, Populist and Catholic origins would be welcomed. After his death, the attempt to mount and sustain a revolutionary front was continued by Joaquim Camara Ferreira. His disappearance was a hard blow from which the Brazilian revolutionaries must recover, but by what means is not yet clear.

Fundamental as Marighela's insight was that the way to solve internal dissension is to move to action, important as was Ferriera's work of amalgamation, the basic problems facing Brazil's resistance movements are still ideological. The Brazilian revolutionary movement divides into two main currents. On one side are the urban guerrilla groups that shun the classical models of mass parties, with their cells, committees and invisible political work. They pay little attention to the ideological preparation of their cadres, recruiting only those who have been formed already by outside organizations and are willing to engage themselves in armed propaganda. Believers in the exemplary value of a revolutionary vanguard, their strategy is influenced by Régis Debray's theories of the "guerrilla foco," though adapted to the conditions of city life and a huge country.

On the other side stands the Popular Action (A.P.) and the Communist Party of Brazil (P.C. do B.), which model themselves on China. They shift most of their militants to rural areas and put emphasis on forming an exclusively proletarian party, able to prepare the masses for a protracted people's war. They stress the political preparation of their militants and think that rather than a Socialist revolution, Brazil is ripe only for the intermediate step of nationalist revolution.

Apart from these groups are large numbers of unorganized dissidents who devote themselves to specific tasks, such as bringing political awareness into education, organizing trade unions and initiating political groups in the *favelas* and working neighborhoods. They have either found no reason to choose among different organizations, because none seem to them to offer a plausible ideological blueprint, or they haven't dared to make the jump.

In an area by itself lies the Moscow-aligned Communist Party, with its theories of pacific coexistence, walking around with a lantern, hoping to stumble on the mythical national bourgeoisie to which it may entrust its anti-imperialistic, nation-building tasks. Eroded by dozens of splits, denounced as an accomplice of the regime, sometimes spared by the political police, it is yet a solid organization, with a national base. Forty years of clandestine life have taught the old party cadres how to survive—and they do survive, if not much more.

Carlos Marighela saw the shades of Brazil's political spectrum and the need to unify them. As the man who started armed struggle against the military dictatorship, he already has a place in Brazilian history. It may well be that the future will recognize him as the forerunner of a National Liberation Front that is slowly taking shape, despite the sufferings of bloody repression. □

BOOKS & THE ARTS

What Did Lenin Really Mean?

LENIN'S CHILDHOOD. By Isaac Deutscher. Oxford University Press. 67 pp. \$4.95.

LOUIS MENASHE

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Ignazio Silone summarized Lenin's significance this way in a recent interview:

Lenin is the real inventor of the way to make a revolution—or rather, let me say he is its codifier. Before him, revolution was a sporadic event in history, not its objective. In the wave of revolutions that is overrunning the world, Lenin becomes a point of reference, a constant symbol in situations that are otherwise very different and antithetical. . . . Because behind the void of a socialism that does not exist there is the myth of Lenin, with the fascination of his triumph. ("How I Remember Lenin," *Dissent*, September-October, 1970.)

There is, of course, in Silone's estimate a note of bitterness and condescension, as there must be among ex-Communists of his generation for whom Lenin-God failed. "Look here," such people say, "we've been through all of that Leninist stuff, and it leads nowhere. It succeeded in Russia because of fluky circumstances; but even there, look what happened. As for us in the Western world, Leninism is bound to be adolescent political fantasy which takes its toll in broken hearts and shattered movements."

The trouble with this sort of preaching, as with all such advice from elders, is that it fails to account for the existential quest of a rebellious generation to confront the myth by itself, and to learn from it for itself. I thought of Silone's words in reading about a contemporary mini-revolution far from the shores of the Volga. Three times in his *Strawberry Statement* (the pre-Hollywood version of the rebellion at Columbia in 1968), James Simon Kunen wondered about Lenin: *Sitting-in at Grayson Kirk's office*—"I smoke my first cigarette in four months and wonder if Lenin smoked." *Later, at the Math Building*—"I wonder, as I look about me, whether Lenin was as concerned with the breast size of his revolutionary cohorts as I am." *Finally, in*

a discussion on campus, someone says—"The reason the police are such an issue is that you've got a lot of revolutionaries who think they're not supposed to get hurt in a revolution. I can hardly see Lenin complaining about police brutality." Which prompts Kunen to muse, "Once again I wonder what old V.I. actually did have to say about these things."

Even allowing for a bit of literary posturing and radical camp on the part of campus revolutionaries like Kunen, the question—"What did Lenin really mean?"—is posed very seriously by many young people everywhere as a practical matter in their struggles to overturn existing institutions and to find the political forms adequate to such a project. Is there anyone who could tell them? And does it matter?

Isaac Deutscher's great unfinished opus, the projected two-volume biography of Lenin, might have begun to offer some answers. He conceived the Lenin study, according to his widow and collaborator Tamara, as "the culmination of his life's work," to comprise, with the biographies of Stalin and Trotsky, "a single essay in a Marxist analysis of the revolution of our age. . . ." Unfortunately, what we have is only a long introductory chapter. It is a poignant piece, not only because of the simple beauty of Deutscher's style in telling the story of the Ulyanov family and recounting what is known of Lenin's early development, but poignant too because we know that this is but a fragment, part of an unsummed whole, which promised much. The fact is that simply no one but Deutscher was equipped to provide us with a clear, honest and comprehensive biographical statement on Lenin. He might very well, given the tremendous ideological confusion on the Left at present, have encouraged a neo-Leninism, just as he was largely responsible for a renewal of interest in Trotsky's ideas, especially among the young.

In a provocative inquiry into the dilemmas of modern Jewry, Deutscher once identified himself as a "non-Jewish Jew," a born Jew who had transcended ethnic egotism and doctrinal arrogance. For purposes of political identification, Deutscher might be called a "non-Trotskyist Trotskyist." That is, he associated himself with Trotsky's efforts to expose and fight Stalinism, but he rejected the

life of party discipline and sectarian certainties. Neither his expulsion from the Polish Communist Party in 1932 (for Trotskyism), nor the disasters of the Hitler and Stalin epochs, which broke the spirit of so many Communists of his time or converted them into snarling, recriminating cold warriors and inverted true believers later on, shook Deutscher's Marxism or rattled his faith in the Russian Revolution. He was a "Trotskyist" in another sense. With his great literary skill, he turned to historical writing in order to help others hold on to their faith in socialism, not by distorting the past but by telling the truth about it. And he chose that most genial, if perhaps least obviously Marxian historiographical form, the biography, as his major vehicle—if only because at the very least, truthful portraits of key revolutionary personalities had to be restored beneath the layers of Stalinist iconography or the debris of Stalinist mutilation.

This biographical task paralleled Trotsky's own attempts to "wrestle with his tomb robbers." Trotsky complemented his political fight with historical writing as well. During a decade of exile from Soviet Russia, he produced several major studies including the celebrated three-volume *History of the Russian Revolution*, an autobiography—*My Life*, an unfinished biography of Stalin, and, interestingly enough, a fragment—much longer and with fuller backgrounds than Deutscher's—on the young Lenin (*Vie de Lénine: Jeunesse*, Paris, 1936. So far as I know, this study has never appeared in English). Trotsky saw that in the process of his own denigration, not only did a corresponding magnification of Stalin to cult proportions take place but a canonization of Lenin, in the precise religious sense, developed as well, beginning with the famous funeral oration intoned by Stalin at Lenin's bier in 1924. A Leninist church emerged, with the Soviet bureaucracy as its priestly caste, guarding with violence its sole right to expound on Lenin ex cathedra, in support of its policies. Trotsky's threefold task in the realm of historiography was to rescue his own reputation, to expose Stalin, and to de-mystify Lenin. He succeeded, I think, two-thirds of the way. His autobiography and his *History* of the revolution are, on the whole, accurate, if occasionally self-justifying renditions of his own intellectual and politi-

cal development, and of his role in the revolutionary chain leading from 1905 to the triumph of the Soviets and his subsequent fall. He also supplemented his biographical exposure of Stalin with what still remains the most sophisticated explanation of the roots of Stalinism, in many essays and in the major work, *The Revolution Betrayed*. (Stalinism as the product of material scarcity and Soviet isolation.)

In the third part of his task, locating the "real Lenin" amidst the Stalinist self-serving adoration of the Lenin icon, he failed, and so did his movement. It's not just that his murder in Coyoacan cut short his work. He and his movement failed, and fails today, because—perhaps inadvertently and inevitably—Trotskyism contributed to the Lenin myth by aping the categories of institutionalized Leninism: the Party and *Partiinost*, the vanguard, dialectical materialism, democratic centralism, proletarian internationalism, monolithic unity, and so on. One of the tragedies of the fight against Stalinism is that both Stalinists and anti-Stalinists resorted to the same language and rituals of institutionalized Leninism. Each side bolstered its positions by textual exegesis of Lenin's writings; each proved its Leninism by being *plus Léniniste que Lénine*; each used the churchly techniques of branding internal dissenters as heretics and casting them out of the fold. And so the process continues today among Stalinist, Trotskyist, and now Maoist wings of the Communist movement, as parties divide into sects, and sects into splinters. And, almost surrealistically—history repeating itself, first as tragedy, then as farce—the process is duplicated far from the Russian historical environment, among our once very authentic home-grown radicals. Consider SDS and its strange demise in Chicago as the factions expelled one another against a backdrop of quotation mongering.

To return to the Deutscher-Trotsky symmetry: Deutscher was also two-thirds successful. The Stalin biography attempted, primarily on the basis of Trotsky's sociological analysis, to evaluate the man and his rule within the historical limits set not only by the Russian past but by the period in which Deutscher was writing. When he brought out *Stalin: A Political Biography* in 1949, the book's theses were highly controversial. For one thing, Deutscher was willing to go further than any other anti-Stalinist in admitting that the devil was not as black as he was painted if one considered the net gains made during the Stalin era—industrialization, the spread of education and public services, and setting the foundations for a modern state capable of

hurling back the Nazi invader. Then, Deutscher broached the possibility that Stalinism would undercut itself by achieving its modernizing social targets. Partial confirmation seemed to come for this hypothesis with Khrushchev's de-Stalinization reforms. But it must be admitted that the evidence still remains incomplete. It seems clear—and Deutscher recognized this in the years before his death—that Stalinism had ruptured revolutionary continuity in so profound a way as to defeat the possibility of a democratic socialism in the USSR for a long time to come. But writing at the height of the cold war, Deutscher had detached the Socialist ideal from the falsified Stalinist definition of it by showing Stalinized socialism to be a product of Russian historical circumstances, thereby enabling many Socialists of the day to confront the Soviet Union and themselves with a better moral balance.

The same themes appear on a larger canvas in Deutscher's masterful Trotsky trilogy, which ranks as one of the great efforts in modern historical literature on Russia—the only work, to my mind, which can stand with Trotsky's own trilogy of the revolution as first-rate historical narrative and compelling art. By the time the third volume appeared (1963), Deutscher was writing for a new audience which included a post-cold-war generation of young people who were uncompromised by Stalinism (for whom, indeed, Stalin and the Soviet Union were remote, almost prehistorical entities), fired by a political activism distrustful of ideology and organization, and worshipping nonparty revolutionaries like Fidel, Fanon, Malcolm, and Bob Dylan. Gradually, in the search for theoretical guidelines, they came to Marxism with fresh and open minds. It was the young Marx, or the "open Marxism" of Gramsci and Luxemburg, or the post-scarcity Marxism of Marcuse they turned to, not to "Marxism-Leninism"—because that meant the squares of the Progressive Labor Party, or, in Cohn-Bendit's memorable phrase, the "Stalinist creeps" of the traditional CPs. And thanks in great part to Deutscher and the Vietnamese War which generated radical constituencies through the peace movement, many turned to Trotskyism. Everyone who has worked in the peace movement knows just how important the Young Socialist Alliance is—the youth section of the Trotskyist Socialist Workers Party—and how much they have pretty well displaced the factionalized SDS as the leading campus radical organization.

But simultaneously with renewal of interest in Marxism came affection for two of Marxism's old-time and occasionally, but not necessarily, related bug-

boos: anarchism and terrorism. In the American setting, one upshot was the exotic amalgam of youth culture and Mao which spawned Bernardine Dohrn and her Tupamaros of the North. (Many of Kunen's fellow campus revolutionaries in 1968, like Mark Rudd, for instance, might also have asked themselves what old V.I. thought and their answer was Weatherman.)

Dohrn's recent "New Morning" statement, however, indicts the "military error" (i.e., bombings), and suggests a major shift in political strategy more in line with the concepts of the cultural revolution. If we do need Weatherman to know which way the wind is blowing, then "New Morning" may indicate that terrorism has run its brief course among present-day American radicals.

So we are left with a polarized field which sees, at one end, the vanguard parties marching under the banner of Leninism (or Trotskyism or Maoism), and, at the other, the advocates of the cultural revolution which, as Charles Reich assures us, promises to green America—a turned-on, bell-bottomed, nonpolitical and anti-party (vanguard or otherwise) revolution spearheaded by the young. In between are the proliferating autonomous formations clustered around such issues and groups as blacks, women, peace, community control, gay people, Indians, GIs, Chicanos, ecology. Here, in my opinion, is where real revolutionary *élan* is located, because the infrastructure of daily life is being changed for many of the people involved, even before The Revolution. But the overriding characteristic of the process is that as these groups grow and develop national goals, polarization afflicts them too. In one form or another, Leninism and anti-Leninism become the points of revolutionary reference, and the sources of confusion and disintegration.

There is a great need, at once scholarly and practical, for anyone seriously interested in changing America for a new definition of Lenin and Leninism. That definition involves de-mythification, and that is a historical task: to present the man as a complicated flesh-and-blood personality of his time who underwent changes, arranging his work around specific challenges very different from our own. No help will come, at present, from the Soviets and their friends who fashioned and mummified the myth in the first place. Nor will help come from anti-Soviet scholars and those "Leninist" activists whose analysis in fact closely jibes with the fairly simple scheme offered by the Soviets, encompassed by the formulas relating to party organization in *What Is To Be Done?*; and the formula defining

socialism: soviet power plus electrification. Lenin the Jacobin; Lenin the technocrat. The Soviets justify political coercion and the primarily material-technological content of their social program by referring to those elements in Leninism; anti-Soviet analysts do the same by explaining the Soviet system as the natural realization of Leninist ideas.

It is probably true that throughout the massive body of Lenin's writings one can find textual support for any one position, as well as for its opposite. Analysis by citation is bad history and bad theory. What is needed is the historically dynamic portrait which highlights that real mark of Lenin's greatness, his ability to change his mind, to rethink yesterday's unswervingly accepted dogmas, then to act accordingly and take the consequences. Here, the Lenin biographer must rise to the occasion in the same way, critically and undogmatically. Is it true that the Stalinist party, or Soviet ideology, or collectivization by bloodshed, or forced-march industrialization, or repressive cultural and social relations constitute the Leninist legacy? Some bold, revisionist work must be attempted before such questions can be answered completely; too often in the past those questions have been answered in the simple affirmative or simple negative. Some work is already going on in new directions, suggesting that Lenin was not at all a Leninist as commonly understood. The libertarian Marxist writer, Raya Dunayevskaya, for example, has demonstrated how far Lenin had come by 1914 from the stereotyped, pseudo-scientific and jejune materialism of many of his contemporaries, and later enshrined by Soviet *Diamat*. Certain English and European scholars with present political concerns—Ralph Miliband, Marcel Liebman and Moshe Lewin—have probed Lenin's career from a revisionist angle in three important areas: the nature of organization in a revolutionary state; the relationship between party and masses, and the role of spontaneity; and the strategies for socio-cultural transformation after the conquest of power. What these probes have shown is more anarchism in Lenin than most Leninists care to admit.

How would Deutscher have handled such matters? Some might argue that he belonged to the old mold of Marxism-Leninism which derived its definition of socialism from essentially 19th-century conditions. No one who witnessed the scene can forget, for example, the fury and horror with which Deutscher reacted to Shane Mage's affirmation of the liberating possibilities of LSD in a discussion of "Socialist Man" at the second annual Socialist Scholars Conference in 1966. Or how testily he responded to Marcuse's

suggestion, read during the same discussion, that classical Marxism was neither utopian enough nor revolutionary enough. My feeling at the time was that he was deeply hurt and troubled by such ideological trends in the United States. His only prescription at the time was to thunder, in his best and enormously impressive extemporaneous style, against such novelities, and to recommend that American Socialists try to rouse that "slumbering giant," the working class.

But he was too honest, and his mind too lively and supple, to hide behind clichés. He was capable of earnest reconsideration, as in a recorded conversation with Dave Dellinger, A. J. Muste and Hans Konigsberger on "Marxism and Nonviolence," excerpts from which appeared posthumously in *Liberation* magazine (July 1969).

I became aware [writes Dellinger] that Deutscher was struggling more deeply than could be seen in his writings with an acute consciousness of the decline in revolutionary morality on the left, as seen not just in the crudities of violence and political repression but also in the substitution of dogma and doctrinal rigidity for revolutionary solidarity. A lifetime of thought and analysis predisposed him against nonviolence as a moralistic evasion of the hard realities of revolutionary struggle, but . . . he questioned and probed, weighed and analyzed the idea that nonviolence might be a potentially revolutionary method of struggle—one that had never been developed into a satisfactory form but conceivably could be. It was almost as if troubled by the political weakness of the left in a period of growing popular alienation from capitalism, Deutscher yearned for the movement to re-establish an identity between revolutionary goals and methods.

And Deutscher contributed this confession:

To what extent is Marxism, as such, responsible for [Stalinism]? It would be wrong to identify Stalinism with Marxism, and to blame Marxism for the things that have been done under Stalinism. On the other hand, it would show a lack of moral courage in Marxism to draw a formal line of dissociation and say that we are not responsible for Stalinism, that that wasn't what we aimed at. . . . We cannot delete Stalinism from our records although we are not responsible for Stalinist crimes. To some extent we (and when I say we I mean that generation of Marxists with which I as an individual identify morally; I mean Lenin, Trotsky, Bukharin, Zinoviev, the early communist leaders in Europe) participated in this glorification of violence as a self-defense mechanism. Rosa Luxemburg understood this when she criticized the first faint signs of this attitude.

He might have added that she saw those "first faint signs" in "Leninism" above all.

Curiously enough, the one major theme that the present fragment deals with is the subject of revolutionary violence, as presented in the engrossing chronicle of Lenin's elder brother, Alexander Ulyanov. Deutscher tells the story sparsely and directly, but how richly the experience speaks to our own day. Alexander Ulyanov, a brilliant young biology student with great moral intensity but no previous political experience, was hanged in 1887 for having plotted to assassinate Tsar Alexander III with an explosive of his own manufacture. Ulyanov and his comrades were attempting to repeat the exploit of the conspirators of *Narodnaya Volya* (The People's Will), a Populist group which took the life of Tsar Alexander II with a bomb in 1881. Deutscher did not here develop his critique of terrorism, except to comment that Ulyanov spoke with "the voice of inexperience and impatience, the voice of youth." He also speculates that the shock of Alexander's involvement and fate jolted his bookish and literary-minded younger brother into political reflection and concern: he was not born Lenin, he became Lenin. At this point the fragment breaks off.

It is difficult to draw a portrait of the private Lenin apart from the public, political Lenin. Whereas Trotsky wrote an autobiography and even for a while kept a diary, Lenin never stopped to take stock of himself in personal terms, or to look at himself, as an old comrade put it, in the historical mirror. He would, I imagine, have considered this a literary self-indulgence which the full-time revolutionary could ill afford. Also, in keeping with what we know about the Ulyanov family, he was extremely modest and very self-controlled, enduring hardships with few traces of outward emotion. As an example, cited by Deutscher, there is in all of Lenin's published works (more than fifty volumes in the latest Soviet edition) only two unadorned references to his brother Alexander. Yet we know from other sources, and from some internal evidence in his writings, how profoundly his brother's activity—and in a larger sense, the stark revolutionary heroism of the generation of terrorists associated with *Narodnaya Volya*—affected his personal and political development. It was only through a tremendous act of will and mind that he and the young Marxists of his day could free themselves from the spell of the terrorist "politics of the deed." And it was by a like effort that the mature Lenin could transcend the Marxist canon laid down by the patriarchs of international social democracy to which he once fully subscribed.

In a similar way must the American Left cast off its heroes, Lenin included, in order to wake up to its own historically real possibilities. But perhaps before it can do this it must confront and understand the historically real Lenin. Deutscher could have helped here. As it

is, he has left us a double memento: one that reminds us of Deutscher's considerable past achievements and one that gives us a measure of the considerable task ahead. When other hands complete it, perhaps we shall have a veritable greening of Lenin. □

Metaphors of Motion

CARTIER-BRESSON'S FRANCE. 285 photographs by Henri Cartier-Bresson. Text by François Nourissier. The Viking Press. 288 pp. \$18.95.

LINCOLN KIRSTEIN

Mr. Kirstein organized the first show and wrote the catalogue of Cartier-Bresson's first Museum of Modern Art show in 1947. Hallmark Galleries, 56th Street at 5th Avenue, is currently showing the pictures in this book.

The French edition is entitled "*Vive la France!*" Long Live France, let France live, France exists! Praise or defiance, patriotic or chauvinist, the shout rings out as a celebration of a way of living which has moved the worlds of thought, art, letters and politics on heroic occasions. With de Gaulle gone, where does France live? Therein, where is France now most alive? This book is a bonanza of answers. It is a medium-weight coffee-table volume, its glazed dust wrapper hard enough to repel spilled drinks. Its few well-printed color plates disrupt the overall textural consistency. Its letterpress might seem perfunctory captions to justify so heavy an album.

But in fact, it contains many of the tenderest pictures by one of the most acute visual historians who ever lived. The text is excellent, aphoristic journalism, lyrically informative; its tone of classical allusiveness subsumes a generous philosophy. Here is *la belle France*, provocatively youthful, elegantly ugly, anatomized. In a clinic, its geographical, social, political and cultural body is stripped for physical and metaphysical examination. The prose has its tint of iodine; the pictures don't spare prognosis of arteriosclerosis, emphysema, shaky liver. But when the tests are over, we find that the naked lady has not simply been examined by specialists. She has seduced both them and us.

Cartier-Bresson's virtues are by now perfectly familiar. It is not by accident that he is our most famous professional photographer, recognized by the chief museums of Europe, Japan and America. While the Louvre and the Victoria & Albert are treasuries of art, it is exactly his non-"artistic" qualities which recom-

mend him to progressive connoisseurship. True, he was trained as a painter, and absorbed the academy of classic Cubism through the twenties. But he has never deluded himself that the camera competes with paint, not even in portraiture. What is even more important, although he worked with Jean Renoir on a master film, *La Règle du jeu* (*Rules of the Game*, 1939), he has never considered his Leica any less capacious than cinema. His most memorable images might, of course, have been sliced from some ideal film. But his happiest shots are designedly static. His people, animals, machines are in balanced rest at their peak of sequential movement or repose, fast or slow. Some run, but the runner in his seized pose is stable, fixed in a metaphor of immutable motion. Still photography, except for purposes of scientific demonstration, rarely gains from the self-conscious blur of kinetic suggestion.

How do his pictures compare with others of more or less the same style and subject (which he discovered first)? Why is he any better than a thousand imitators who also publish albums and get one-man shows? Leave "better" to personal preference. His work is *different* in its degree of scrupulous substructure, the strength of whose design calls halt at every flip of the page. Its abstract underpinnings bolster memory, capturing in his "decisive moments" figurations which stick in eye and mind. It differs in the essence of what he hunts, which transcends the picturesque, transcends coincidence, to achieve a superior ordering-in-accident. Mere good luck, captured catastrophe, however stagily framed, seems to dissolve into trick photography. Some of Cartier-Bresson's composing suggests Piero della Francesca or Seurat, but that is not aesthetic homage or imitation. It is a similar temperamental preoccupation with the still, the archetypal, the monumental, the permanent. In his dialectic, he confirms the intrinsically ephemeral quality of his medium; he struggles to wrench a real permanence from a continuum. How difficult this is; how often he succeeds.

Massive files of *Life*, *Look* and *Paris-*

Match, either as art or history, are often less rewarding than bound volumes of *The Illustrated London News*, before it replaced draftsmanship by photography. Constantin Guys and Gustave Doré reported on the Crimean War and the Limehouse slums; their sketches had to be transferred onto wood blocks, hacked out by engravers who lost half the life in every line. But these meanly handcrafted images often retain more pathos than all the so-called "great" photography of World War II, since Guys and Doré were splendid draftsmen and the notes they dispatched to their editors were already epitomes of action.

As for France, itself: Cartier-Bresson spent a year and a half cruising around a countryside he knows even better than Asia or America. A Norman-Parisian, *jeuiste-protestant*, he rediscovered the fantastic mosaic of regional accents. What he magically captures, even if we have slight personal knowledge of a site, is the timbre and taste of a province. François Nourissier has organized his text as contrapuntal accompaniment. There is no specificity as to word and picture, but prose illuminates each photo, which in turn incarnates ideas. This is no *France-imaginaire* of public relations or tourism. It is the real France, with its living past and mortal present, the France of farms whose peasants quit field and vineyard for the Citroën factories; Catholic France in desuetude where M. le Curé fights his wan rear-guard action; medieval France raped by superhighways, where *haute cuisine* is smothered in beefburgers and chefs' salads, and *haute couture* is heavily blue-jeaned and love-beaded. As a world citizen, Nourissier knows how ugly are Osaka, Brooklyn, Chicago and Milan; he also despairs of the loss of the Seine-side. Exhaust fumes play no favorites; Paris, perhaps the nearest approach to The Ideal City in two millennia, has lost in the last twenty-five years far more than it gained through Malraux's washing a few façades. Nourissier's observations on the May days of 1968, set against the pictures, serve as an epic minifilm which no *cinéma-vérité* has yet canonized. When he touches on the elite, what was once called *le gratin*, that upper crust we term the Establishment, he is at his surprising best. People who read *The Village Voice* or *New York Magazine* for insight on local power ploys might compare such coverage with Nourissier's view of the extant residue from the salons of the Enlightenment.

For France, an arbiter of culture despite two World Wars, Mao and Marcuse, still conducts itself in a very high style of sensibility, imagination and humane relations. The Paris-centered Establishment exists as a focus for manipulation and manners unmatched by that of any

other metropolis. It resembles that community in which the Encyclopedists, their friends and mistresses, prepared a middle-class revolution which precipitated reform far less than it opened the way for Napoleon.

It seems to the observer to be a true democracy of gifts, divested of received ideas or artificial prejudice, in which individual capacity of whatever origin, province, color, sex, culture or calling operates in a tense and tight companionship. Idiosyncrasy is quickly recognized and loyally acclaimed, not as status but essence. New French novels are not much read today, outside of France. In painting, the School of Paris abdicates to the New York School. French drama is

dreary. Where is French poetry? St.-John Perse. Yet Gallic wit and passion are alive in cinema, our liveliest art. Cocteau, an important poet, thinker and film maker, in spite of his facile self-impersonations, long ago enunciated the permanent French modernist program: rehabilitation of the commonplace. The moral maturity, the native wisdom of what France claims as usual, from *vin ordinaire* to disaster distilled as normal, is what still counts, in this book most vividly. Its text and photographs do not dilute what is disgusting, tasteless, horrifying, wasteful. But it does glorify that *bon goût*, the fierce stoicism of traditional morality where it once measured more, where it yet means much. □

more and more intimate as she drew closer. "It was the early morning, between cock-crow and earth's-opening-of-the-door. The line of trees along the riverbank looked to be a furl of black brushfire smoke against the grey horizon. As Aligbono approached, a covey of startled guineafowl flushed from the underwood. A warm wind rasped upon the brittle stalks of the swamp grasses. A white heron skimmed along the mudflats and plunged into the stream. Then, a yawn in the canebrake, followed by a dry cough, as if something or someone were clearing his throat to speak. . . ."

Raising her voice, she continued: "It was at such a time and in such a place that the Princess Aligbono met a spirit in the form of a panther. The servant girls screamed. Dropping their plaited baskets they fled, leaving her alone with him."

And as the story unfolds, so does the author's special style and vision—an eye and an ear that penetrate, explore, and finally reveal richness of the holy world-as-it-exists, its existence being the many-colored gown of a host of spirits, quarreling, laughing, elaborating their existence in a thousand voices.

As each dancer's nerves, fragile as the veins of a leaf, became for a few splendid moments part of those unseen wefts of existence that make all fixed forms vibrate with strength, energy, the blood, the sap, the very breath of life, released by the play of hand and stick upon master drum, the *vodu* responded, rode their mortal horses across earth, sea, and sky; it was she who kept them to the confines of the dancing floor; and at the same time it was she, the hidden fourth drum who absorbed the force, vibrating soundlessly until the song was done.

Agotime is filled with the babble and chaos of the animistic world of *vodu*, where everything glows with its own inner power, as well as with a thousand reflections, a complexity of spiritual symbiosis. Baffled as one may be at first in reading *Agotime*, one slowly gets the feeling of *this* kind of universe, with its special balance and its special sense of close spiritual contact with everyday life.

"Everything has happened in the sky before." So says the *Bokono*, royal chief diviner of the Dahomean court. But the gods are themselves constantly in flux, renewing and reasserting themselves, adjusting to newcomers. In some religions there is always room at the top. Thus it was with the Romans—and the kings of Dahomey were also of this kind. Each of us has his own personal *vodu*. To which of the forces do I belong? Could he be persuaded to descend and occupy me, to let me ride the cool swell of his mysterious power?

A Queen in Exile

AGOTIME: Her Legend. By Judith Gleason. Grossman Publishers. 300 pp. \$7.95.

DAVID ROSENTHAL

Mr. Rosenthal is a writer living in New York.

*Dahomey,
Your force dominates the world.
O kings,
My hands long to perform
All my elders have done,
Be all they have been.
We the strong survive;
We knock at the door. . . .*

—Dahomean ritual incantation
of the Toxosu cult

Here is a work so original and special that it inaugurates its own genre—perhaps it might be called a literary-anthropological exploratory mission. Mrs. Gleason has taken the life story of Agotime, an actual Dahomean queen, bringing together scattered strands of information from every possible source—including the oral accounts of Africans and black Brazilians. From these carefully gathered materials, a tapestry of fact and legend has been woven, a strange and powerful book which re-creates both the reality and the surrounding mythological and spiritual aura of 19th-century Dahomey and Brazil. Agotime's legend can be chillingly real in the telling; at the same time it exudes the fragile odor of yellowed letters, old memories pieced together from a time long ago—and yet not really so ancient.

In the year 1802, in the mighty African kingdom of Dahomey, Na (Queen) Agotime was the mother of the exiled prince Gakpe, who had been driven from the court by his half-brother, King

Adadoza. Agotime was sold into slavery and sent to Brazil on a Portuguese slave ship. But on her way from the Dahomean capital of Abomey to the port town of Whydah, she encountered Zomadonu, lord of the *Toxosu*—sacred water-spirits whom Adadoza had displaced from their honored position in the Dahomean court and pantheon. Zomadonu bound Agotime with an oath, engaging her to establish the cult of his *Toxosu* in the New World, and promised in return to help her son in his efforts to gain the throne. Thus Agotime was instructed in her destiny, apprised of her unique place in the complex world of men and spirits.

Into her fulfillment of that destiny are woven many elements—dynastic and divine warfare; the horrors of the slave ship; a failed Negro uprising in Bahía, and Agotime's love affair with Vivaldo, one of its leaders; her subsequent escape into the wilds of the Brazilian backlands; her success as a cult-mother (Mae-de-Santo) devoted to the *Toxosu*; the arrival of two ambassadors from the court of her son Gakpe (now the great King Gezo), ambassadors whom he had sent to bring her back to Dahomey. Did she actually return? No one can be sure to this day.

Agotime is written in a style as intricate and profuse as its story—a seething richness of motive and personage, color and rhythm, that parallels the complexities and unexpected juxtapositions of 19th-century black society—both African and Latin American. From the beginning, one is aware of an extraordinary voice—talking, to be sure, of real (or half-real) things—but evoking the full bounty and mystery of life.

Agotime's voice dropped, becoming

Agotime is history, odyssey and myth. When I finished reading it, I wanted to enter its magic circle, to dance and be haunted by the gods myself. And why not? *Agotime* is its own uniquely enticing world, alive with its own special animus. And it evokes for us a thoroughly *existent* reality—wondrous but also genuine—of a world with its numina intact. Judith Gleason's great achievement lies in telling a story that is both fabulous and true. Her heroine is a real woman of nobility and passion, a great female sensibility of the kind that Yeats loved to invoke. Mrs. Gleason offers us a voyage to the land of the unalienated, a voyage whose wonders and unfolding possibilities are made real to us by her deep and joyous act of creation. □

THEATRE

HAROLD CLURMAN

Heathcote Williams' *AC/DC* is a play not to be lightly dismissed; at the same time, it is one not readily to be recommended (Chelsea Theatre Center of Brooklyn). The ambivalence of this statement relates both to the nature of the piece and to my critical attitude. I am not particularly concerned about being "entertained" (having fun) in the theatre, since most of the time I have fun almost everywhere. What I seek is an understanding of plays—if there is anything about them worth understanding—and through them the world that produced them.

The young Englishman, Heathcote Williams, like many urban young people everywhere, is fed up with the insanity of cities. The specific irritation projected in *AC/DC* is the technological, electronic, noise-polluted plague of the popular media, which causes the storms in our heads. Imagine, Williams says in a manner that echoes the chaos he rails at, how much benefit would accrue to humanity if all the energy poured forth and aroused by the Beatles had been put to some truly creative purpose. Gigantic mechanisms and immense wealth expended on the Beatles—enough to foment a scouring revolution—all gone to waste!

The play rarely rises or descends to so simplistic a statement. Its style is "Dada": it fights irrationality with irrationality. It pits heebie-jeebies against environmental folly. It is explosively obscene, a clear case of hyperaesthesia. It employs a manic gush of words (far too many), a reaction to the disease it would excoriate and a symptom of it. The im-

pulse is genuine and the quasi-automatic writing, when it does not obfuscate, flashes with invention, malice and wit, achieving a special sort of contemporary eloquence.

The cast does its formidable task well: one wonders how the actors manage to find themselves in the tangle and whirlwind of the play's lines, composed as they are, among other things, of so many presumably mathematical equations. Stefan Gierasch and Susan Batson are especially effective. The extraordinarily vibrant Miss Batson has an unusual kind of talent: if the right parts were assigned to her, she would be recognized as an outstanding actress.

If Paul Zindel's new play *And Miss Reardon Drinks a Little* (Morosco Theatre) has any special point, it is that we are living in a society of nuts—which is no longer news. But though Zindel has sympathy or an affinity for the neglected and disturbed, he is more adept at depicting them than in drawing any conclusions about them—except perhaps that we ought not allow ourselves, through pity, to be overwhelmed by them. In his earlier and much better *The Effect of Gamma Rays on Man-in-the-Moon Marigolds*, a real person flows from the compost of abject defeat and hysteria. In *Miss Reardon* there are only weeds.

New Left? Dave Dellinger has been in it for over 30 years.

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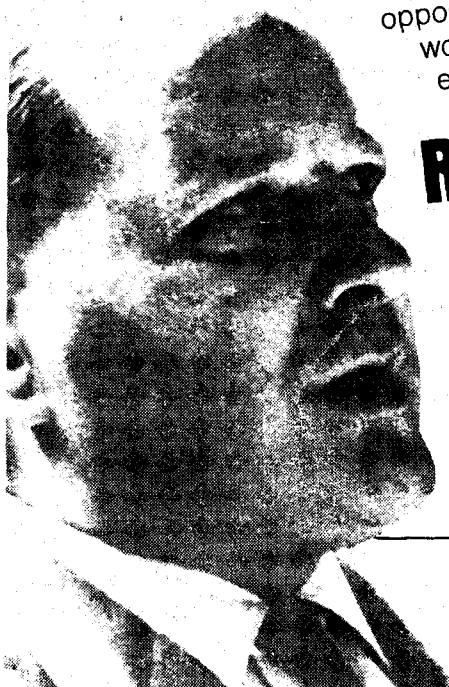
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REVOLUTIONARY NONVIOLENCE

by Dave Dellinger

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The three Reardon sisters are public schoolteachers. Their father abandoned his home when they were children. Anna Reardon, the most fragile of the three, was consigned to the care of their increasingly ailing and neurotic mother, whose death terribly shocked the girl. The rugged but not so attractive Catherine Reardon lost her boy friend to Ceil, the steadiest of the sisters and now a school superintendent. Of the two spinsters, Anna is quite mad and Catherine drinks; Ceil, married to Catherine's former swain, remains rigorously proper and adjusted to the circumstances of her tight circle.

Nothing much happens, except that Catherine, after having to take care of, really enslave herself to, the mentally ill Anna, finally decides to get rid of the burden by sending her sister to a hospital. These, then, are character studies, to which are added another teacher and her husband, who live in the same building as do the unfortunate Catherine and Anna. These neighbors, the Steins (the man is "in glass"), are people of the crummy middle class and more amusingly drawn than any of the others.

Though its atmosphere is sordid, the audience finds the play funny. There are loads of laughs, the reason for which—beyond Zindel's slickly expert writing—interests me. *Miss Reardon* is chiefly a display of bad manners and excruciating rudeness. The play abounds in taunts, and the well-turned elaborate insult evidently gratifies today's audience. We vent undisclosed frustrations and hostilities in jokes and mockery, which supposedly render our festering hate anodyne. The audience, moreover, compliments itself (and the author) by believing that it is observing "real people," and thus proving that it does not balk at the astringent.

I suspect the "reality" of Zindel's characters in this play, even if they are persons he has known in "real life," which is probably the case. They have become atrocious gags. Ugliness and cruelty are as much proper subjects for art as virtue, but they must be seen in the light of some larger vision. An artist's derision must not demean; it must reveal an ultimately fortifying sense of life, a generosity or enkindling energy of spirit. In this connection I recall Coleridge's aphorism about abrasive works of art, "There ought never to be more pain than is compatible with co-existing pleasure, and [we ought] to be amply repaid by thought."

Most of the pleasure in *And Miss Reardon Drinks a Little* is provided by the excellent cast. Julie Harris never fails to charm; she lends innocence to whatever she does, and Anna Reardon de-

mands that grace to save her from ghoulishness. Estelle Parsons, as the bibulous sister, brings an honest and vulgar earthiness to her part that is constantly endearing. Rae Allen and Bill Macy evince a straightforward simplicity in their acting of the absurdly gross Steins which dispels their noxious fumes and converts them into genuine comedy.

A word about the "scenery": it serves. But I have become impatient with "realistic" settings which are no more than that: they depress me. □

DANCE

NANCY GOLDNER

It was not Maurice Béjart's poor choreography that made his three-week season at the Brooklyn Academy of Music (ending February 14) so disturbing. After all, poor-to-middling choreography is what we usually see and, while it can disappoint or bore, it is rarely disturbing. But there was much more than plain bad craftsmanship and noncreativity connected with Béjart's Ballet of the 20th Century. The queasiness began, I suppose, when I got in the mail a button announcing that "Béjart is sexier." It was almost impossible to quell suspicions—was a ballet company coming, or a product of some Madison Avenue executive's outlandish imagination; were the Belgians going to be "sold" to us; and who was "us" anyway? Not those who understand enough about dance to realize that the art is intrinsically erotic. No, sexier Béjart would address himself to those ill-informed persons who thought that ballet was all frills, fluffy movement and irrelevance—whatever that means.

Despite the suspicions, in fairness I had to reserve judgment on the sexy business, for the company had not even arrived in America. Now, after seeing them, I have learned to put more confidence in the publicity men. They do know what image they are conjuring up. Béjart not only confirmed the meaning of that button but surpassed it. The Béjart show was a sex show, but of a new mode; on the underside of the pop movement, perhaps. Many of the dancers were accomplished technicians, but that obviously was not what was on display. The women were used as automatons, including even the remarkable Suzanne Farrell, who until recently danced with the New York City Ballet. We saw her kick her legs, and we saw Maina Gielgud balance on one foot, but the choreography was not designed to show personality, that is, dancer's personality, or

lyricism, the one aspect of the female personality that is best developed in dance. The women were treated as non-sexual (and by extension, nonhuman) entities. It might be argued that in the traditional structure men hold the same position. In the *pas de deux*, for example, the man is not as visible as the woman. But by partnering he fulfills a vital function as a dancer, and in deploying his strength to lift the woman he also functions as a man. Béjart's women had no function. Alas, there was luscious and willowy Miss Farrell, for whom Béjart could do nothing but have her ankle touch her nose.

Béjart's interest was the men. Had this interest manifested itself in dancing, there would have been a totally acceptable justification for his unorthodox preference, and a counterweight to the undeniable strangeness of seeing dance dominated by men. And yet by the time the season was over, I knew little about these dancers as dancers; I did not know if they could jump, turn, or beat their feet cleanly in the air. These technical feats are the dancers' character only in part, but it was even impossible to come to know their style of moving.

Béjart's failure to use his men as dancers was compounded by the fact that he used them as glamour boys. Faces tended to be thickly made up. Hair was noticeably long and shaggy, in that off-hand but exclamatory manner that has become the symbol of hippiedom. Whether Béjart is responsible for such decorum is beside the point; evidently there is a company spirit in which such misplaced concern can flourish. When one considers what kind of movement Béjart gave to the men, however, their glamour takes on some peculiar overtones. The choreography consisted of undulating arm movements, body-beautiful torso configurations, and a couple of turns when nothing else was happening. It was all extremely self-conscious and calculated for effect, stemming not from the dancer but from an image, a visual picture, that Béjart imposed on the dancer. Imagine flipping quickly through some photographs of male models, and you will see a Béjart ballet. Effeminate movement combined with extravagant hairdos and makeup that emphasized the exotic all conspired to produce a freak show. It was freakish because the homosexual bent, though disguised in political themes and suggestions of the hip, became blatant and aggressive as it turned such female qualities as felineness, vanity and prettiness into male virtues. In short, the men were acting sexy. Men may be sexy, but when they start to act sexy, which inevitably becomes a parody of femininity, the effect is grotesque—some-

thing akin to the Fellini types in *Satyricon*. Just as disturbing, though, was the fact that posturing took the place of dance. Virtuosity was apparently considered "irrelevant" when compared to the kinetic potency (male potency) of a wiggling hip or a dangling wrist.

Dishonesty was rampant in other areas. The audience was asked not only to identify with effeminacy but to respond to ideology rather than dance. The dancers embodied the romantic ideals of teen-agers. Worse, those ideals were manipulated into a political context. In this way Béjart perpetuated the confused and ultimately birdbrained view that youth culture and political life are linked, and that to be a flower child or show other manifestations of fervency is somehow a meaningful political act. The dancers played either revolutionary partisans (*The Firebird*—yes, that's Stravinsky's *Firebird*, lifted from its magical Russian woods to the streets, where power belongs to the people), or alienated politicians (*Messe pour le Temps Présent*), or alienated lovers (*Romeo and Juliet*), or searchers of truth (*Les Vainqueurs*), or meditators (in the Eastern ballets, none of which were Eastern except that at times the dancers would just sit or stand; presumably thinking, but mostly breathing), or religious fanatics at the Western temple of Bach (poor Bach: he thought himself a musician; did he ever suppose that his notations would be worshipped by non-dancers?).

Dress was another conspiring factor in Béjart's coercive, not to mention adolescently conceived, ideological works. Sometimes a choreographer wants his dancers out of costume. Since the dance is on the stage and is choreographed—that is, since the dance is still a formal construction—the dancers cannot be literally out of costume if honesty is to prevail. An excellent convention takes care of this problem: the dancers wear the costume of the classroom, leotards and tights. This conveys the message while acknowledging that ballet is not everyday activity. On occasion (few occasions actually, but telling nevertheless), Béjart dressed his people in work shirts and dungarees, as if to say that we dancers with our flowing manes of hair, gorgeous bodies and voluptuous faces are really just like you the audience—young, proletariat, even revolutionary. The assumption that this is the audience is presumptuous, but the message that the dancers are more than dancers is outrageous, particularly to those who like dance and ask no more than that dancers dance. It has become the fashion in the pop world to demand of performers that they have symbolic meaning as well as

talent. To see the Béjart people take on that role without embarrassment, but with proud smugness, was terribly sad. For the implication is that if ballet must become a part of youth culture, if it depends on finding rapport with the audience through conventions that have nothing to do with dance, the art is in a state of decline.

Dance is not on the decline, and Béjart's efforts to liven it are therefore offensive. His premise is also a dead end for Béjart. It forces him to find a way of communication that is emblematic rather than real, in terms of actual movement as well as subject matter. A dab of flexed foot and a pinch of alienation and, presto! modern ballet. This is stuff for people who do not like or trust dance. I wonder if Béjart is one of them. □

ART

LAWRENCE ALLOWAY

Mark Rothko's art was always putting people in mind of chapels. Robert Goldwater, reviewing an exhibition ten years ago, singled out for praise "the small chapel-like room in which have been hung three of the mural series of 1958-59." At the Phillips Gallery in Washington there is a special Rothko installation, totally unlike the domestic display elsewhere in the house; in appearance it falls somewhere between Dag Hammarskjöld's "contemplation room" at the U.N. and a chapel. Now there is a real chapel full of Rothkos in Houston, Tex.—an indisputably major group of strong, somber paintings.

When the project was first announced, it was to have been a Roman Catholic chapel at St. Thomas University; later it was switched to something interdenominational at Rice University. Now that it has been built, the chapel is attached to the Institute of Religion and Human Development, a part of the Texas Medical Center. The Institute combines ecumenical religion (and interdisciplinary studies) with good works (hospital training, family counseling). The dedication of the chapel of February 27 can be viewed both as an occasion of ecumenical patronage without precedent and as the realization of a purely artistic project. The donors of the chapel, Mr. and Mrs. John de Menil, are Roman Catholics and Rothko was not. To turn again to Dr. Goldwater (from whom we can expect a definitive book on the artist): "Though Mark Rothko had no concern with dogma or doctrine, he was an intensely religious

man." There was a time when religion as one-man intimation was viewed rather skeptically, but the ecumenical movement has, among other things, gone some way to legitimize such intuitions. It is even possible now to call the building the *Rothko Chapel*, although, to pick chapels at random, those on which Giotto, Masaccio, Michelangelo and Matisse worked are not called after the artists.

The difficulties of religious art today are about what they have been since the 19th century. Art is not essential to worship and there is no iconographical system that a donor can demand and an artist supply on an easy basis of agreement. However, there exist, bound into our culture, grand commonplaces which were revived by the Abstract Expressionists. In Rothko, for instance, the symbolic value of light, and by extension of darkness, is a traditional religious topic; in addition, his restriction of color to one dark area of the spectrum implies a stance of renunciation. The size of the paintings is significant, also: they have a grandeur both awesome (as they rear up to 15 feet or so) and sensual. The use of triptychs is a link to Christian art as the Trinity is to Christian dogma and both are evoked by Rothko's triple groupings in the chapel. Ironically, the ecclesiastical elements that Rothko took for personal use in his (secular) art are now restored to the church. What has happened is that the chapel accepts as religious art works based on those general topics of humanistic thought which are ennobling, that is to say, ambitious on behalf of man.

If the paintings are nondoctrinal, the architecture is nonliturgical—an area bare of everything except art. In a sense,

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the chapel is a climax of the long interest of New York artists in immersive space. The painters of big pictures (Pollock, Newman and Still, as well as Rothko) developed the concept of large scale as a source of intimacy. Instead of stepping back from a large picture to see it as a whole, the optimal spectator should step toward the painting, into its ambience.

There are fourteen paintings in the chapel, done between 1966 and spring 1968, grouped as three triptychs and five singles. The chapel, which is octagonal, was built solely for the display of the paintings. The studio in which Rothko executed them was a same-size architectural mock-up. You enter the chapel from the south, and opposite is a shallow apse containing a triptych: each of the three canvases is a monochrome field, a warm purple in the center, flanked by darker but spectrally close canvases. On the east and west

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walls are two more triptychs, less vast than the one in the apse, and with their central sections raised above the side panels. Each of the four shorter walls of the octagon is almost completely covered by a large monochrome painting. Opposite the big triptych is a tall thin painting with a black rectangular form above a field of flushed browns, reminiscent of Rothko's earlier works.

Rothko's habitual image, of course, is of stacked rectangles of color, but the differences between the strata are endless. They are beautiful in terms of what Rhys Carpenter has called irregularizing refinements, by which he means nuances of touch and emphasis within a regular structure. This sensuous resource is still amply present but curbed in Rothko's new paintings, which reveal a move toward forms less diversified, more unified, than the stacks. There are seven monochrome canvases without any interruption of the dense color and there is repetition, as in the four pictures at the corner walls of the chapel and the matching triptychs to east and west. All this has the effect of compressing one's sense of distance, since any paintings that are distant resemble paintings that are close. An intricate spatial intimacy is brilliantly set up by the correspondences within the set of paintings.

Rothko's close-valued colors are hard to see: he withholds a clear picture plane, an absolute surface. When black occurs in these paintings, for instance, it is usually more reflective than the matte browns or purples, so that it picks up the light in the chapel. Thus the dark is made lighter, and to register such subtle shifts the spectator needs a low level of illumination. Only in light dimmer than gallery or museum norms can Rothko's darker paintings be seen properly. The architects of the chapel had nothing to do except make the paintings visible. I don't mean that that is very simple, but it is true that there were no competing interests. The lighting is disastrous. A row of primitive fittings fails totally to wash the big pictures evenly; wherever you try to look, there are spoty highlights and gloomy tonal gradients.

The architects are Howard Barnstone and Eugene Aubrey and according to one of them they hope to improve the lighting. No doubt it will get better, but why design a building like this without controllable lights and why did the donors accept plans in which the lighting system was not primary? Rothko is reported to have wanted only daylight (like Frank Lloyd Wright in his original Guggenheim Museum plans). This would have involved masking the chapel's central dome, either inside or out, to break the sunlight. It was not done and as

POOR MAN'S PLAINT

*Wageman, I'm staggered.
I grow clumsy, haltered
by the sign, "For Hire."
With waxing and wanings I conspire.
But I can't hide
from an ill wind. And I've got
nothing put aside.*

*I roll bones. Day is the die.
The cast is for love.*

*Wages claim pride: wage pride.
I serve for wages. Shall I try
a win of pride? Winnings fly.
And the children?
Can I build on them?
No, they are my
clutched straw.*

*There's no help, no help.
Soon I bury
all I came by. . . .
There's no stay of wind I know.
I ain't got no.*

Sam Bradley

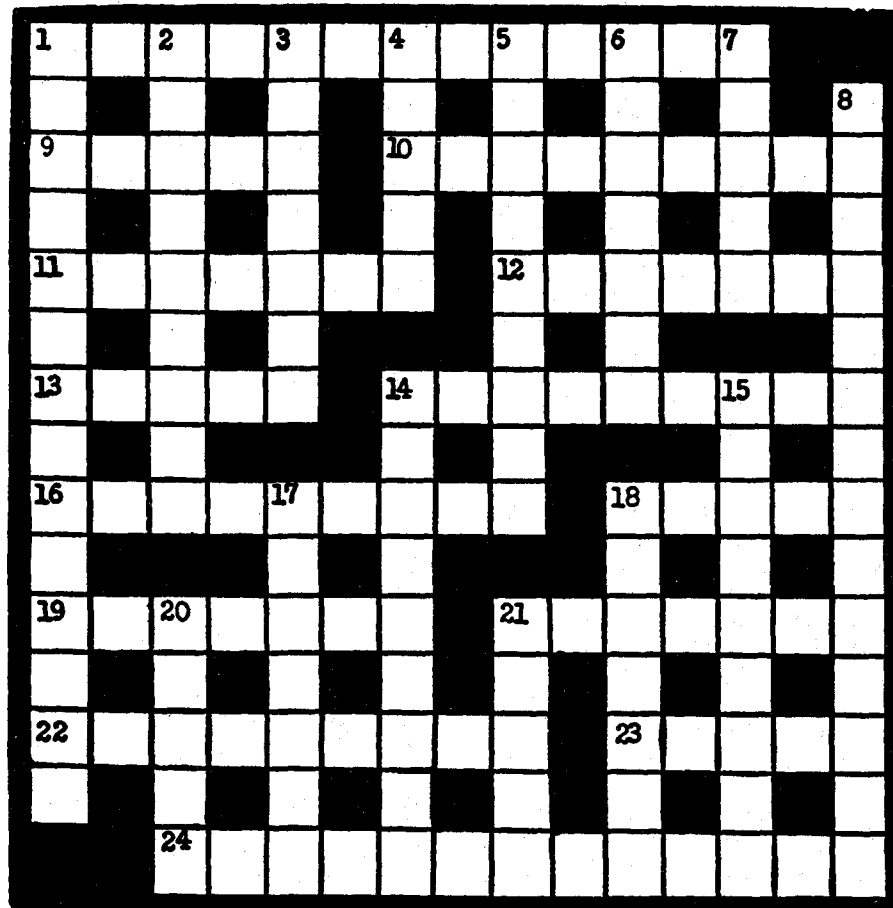
matters stand, too much light streams in by day, illuminating the middle of the floor like a skating rink, and pushing the paintings back out of the way.

The paintings were done on stretchers of a normal depth, say an inch and a half, and then, shortly before his death last year, Rothko changed his mind and the canvases were remounted on very deep stretchers, a hand span in depth. These lift the paintings forward from the wall and produce deep wedges of shadow under them. I take it that the extra depth is proportionate to the massive scale of the paintings, but it has led to one problem. There are twin doorways each side of the facing triptychs and the paintings are literally only an inch or two from the openings. Because of the increase in the projection of the paintings, traffic flow and paint surface make an uneasy interface.

According to Theodoros Stamos, the triptychs have been placed too high, it being Rothko's intention for the side panels to be 21 inches from the floor, with the raised center panel only 3 inches higher. Both these measurements are exceeded in the chapel at present and the raising has the effect of obscuring the rhythm of ascension set up by the top levels of the paintings, obviously a factor when the artist has relinquished so much in the way of internal incident. The pictures now are all high and close enough in level to be confusing, whereas a lower placing of the triptychs would establish a clear lower zone that would release the taller paintings, freeing them for an upward thrust. □

Crossword Puzzle No. 1385

FRANK W. LEWIS



ACROSS

- 1 One might be expected to keep the feet dry. (8,5)
- 9 Liable to be lying. (5)
- 10 It could be logical, as a plasterwork imitating marble. (9)
- 11 Perhaps underdo what they might say the runner did second. (7)
- 12 Mr. Armstrong, familiarly. (7)
- 13 Unable to see the shade? (5)
- 14 Mrs. Shoer, notable during the Boer War? (9)
- 16 Rather perplexed, perhaps due to the unsold pen. (9)
- 18 By the sound of it, look the passage up. (5)
- 19 A severe bind? (7)
- 21 Get something other than an amateur remedy. (7)
- 22 Finishing material, such as 20 in your bonnet? (9)
- 23 The country starts in by bringing back help. (5)
- 24 Attic dweller, associated with at least one story. (5,3,5)

DOWN

- 1 The extra part with a roll on the ball is more than plenty! (14)
- 2 You might get no evil out of it, though most people believe in it. (9)

- 3 Gave an address in the court. (7)
- 4 Sought by scent. (5)
- 5 Tall and lank or lean like bacon? (4-5)
- 6 Such religious workers certainly shouldn't seem square! (7)
- 7 In a line after Cain or before Methusalem. (5)
- 8 Walker would not typify such potential political danger. (3,2,9)
- 14 Might it imply Portugal was sunk? (9)
- 15 You might find many an anagram, as Manuel did in this case. (2,1,6)
- 17 Used by one who spears a fish, or reels it, perhaps. (7)
- 18 Gone his way, behaving as an unfeminine 14 across, perhaps. (7)
- 20 Stone pinnacle, literally first and last. (5)
- 21 Evidently the wrong chaps made the old holiday. (5)

SOULTION TO PUZZLE NO. 1384

ACROSS: 1,6 and 20 Putting on the dog; 5 Clobber; 9 Trances; 10 Totters; 11 Sling; 12 Impressed; 15 Western; 18 Aid; 21 Reasons; 23 Sung; 26 Elegantly; 28 Purim; 29 Grid-dle; 30 Exposal; 31 Openers; 32 Earnest. DOWN: 1 Potash; 2 Tragic; 3 Incognito; 4 Gasping; 5 Catspaw; 7 Breasted; 8 Residing; 13 and 14 Viewing; 16 Sandpaper; 17 Rod; 18 Arpeggio; 19 Date line; 22 Sitters; 23 Styrene; 24 Triste; 25 Omelet; 27 Addle.

PERSONALS

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THE OTHER SIDE OF THE COIN

Who is more guilty, the person pulling the trigger, or the person who frees his hands so he can do the trigger-pulling?

The bully is the handiwork of cowards.

Rulers must always have overseers, who do not permit too much substance to be wasted on the people. Pampered persons make the best overseers; they have no sympathy because they have no empathy.

Those who receive praise in school may become addicted to it. They can be cheaply intoxicated by praise into a Pollyanna state, where they are oblivious of injustice plainly evident to others.

People who are always in good humor never get fighting mad, and serve as zombic collaborators of even the cruelest deeds performed by others.

"Rational" people usually think in terms of materialistic efficiency, and ignore such happiness as may be destroyed. They seldom concern themselves regarding the ultimate purpose for which the efficiency is designed. They will collaborate in anything, as long as they are not on the front line where their guilt is plainly evident.

D. KORETZ P.O. BOX 733 Detroit, Mich. 48231

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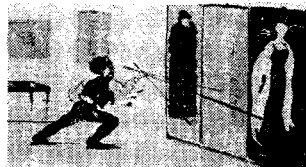
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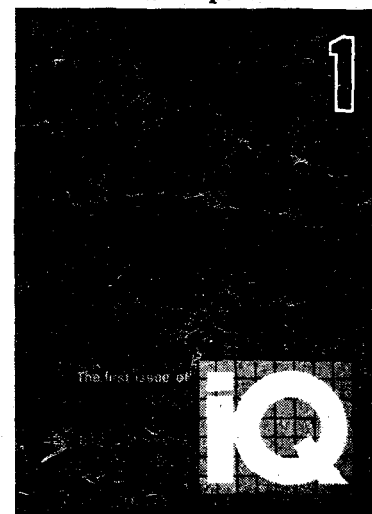
4. Answering the Hunger for Continuing Education: Lists of books are all well and good. But how do you design an authoritative program—better than what is generally available in universities or colleges with continuing education programs? What about new forms of reading skills? What about professional self-testing?

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